







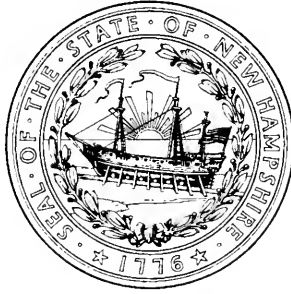








# **NEW HAMPSHIRE GENERAL COURT**



## **JOURNAL of the HOUSE OF REPRESENTATIVES**

**Containing the 2004 Session  
January 5, 2004  
through  
June 17, 2004**

**GENE G. CHANDLER  
SPEAKER**

**KAREN O. WADSWORTH  
CLERK**

**DEBORAH NIELSEN  
SERGEANT-AT-ARMS**

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# HOUSE JOURNAL No. 1

Wednesday, January 7, 2004

This day, January 7, 2004, the first Wednesday following the first Tuesday in January, being the day designated by the Constitution (Art. 3<sup>rd</sup>, Part 2<sup>nd</sup>) for assembling of the second-year session of the 158<sup>th</sup> General Court of the State of New Hampshire, at the Capitol in the city of Concord, the Speaker convened the 2004 House of Representatives and called the session to order at 1:30 p.m.

His Excellency, Governor Craig Benson and Congressman Jeb Bradley joined the Speaker on the rostrum for the day's opening ceremonies.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Beloved Lord of all creation, the extremes of weather and of life circumstances remind us daily that we are not in control of our destiny but that we are partners with You in charting the future for ourselves and others. At the beginning of this new year, we ask Your blessing upon all who have been honored to hold the temporary authority of government for the citizens of New Hampshire, especially our governor, members of the Senate and members of the General Court. May all that is accomplished this year be done in accordance with our partnership with You and with Your gifts of liberty and freedom. Help us always to care for those most in need in our beloved New Hampshire. Lord, may Your protective hand be upon the brave men and women of our armed forces and law enforcement agencies who are serving both near and far to protect us; be also with their loved ones who sacrifice daily on our behalf. May our gratitude for those who have given their lives in our defense never cease and may our daily service be worthy of so great a cost. Amen.

Rep. Alan B. Bemis led the Pledge of Allegiance.

The National Anthem was sung by Jay LaChance, Joe Hayden, Vic Wright and Dean Riley, members of the barbershop quartet, "The Quarterly Quartet" based in Concord.

## LEAVES OF ABSENCE

Reps. Almy, Desmarais, Flanagan, Ford, Joseph Harris, Sandra Harris, Hunter, Keans, Langley, Lefebvre, Milligan and Scamman, the day, illness.

Reps. Balcom, Dewhirst, Flayhan, Grassie, Bonnie Ham, Christine Hamm, Holland, Lessard, Musler, Oliver, Perkins, Priestley, Rollo, Katherine Taylor and Kathleen Taylor, the day, important business.

## INTRODUCTION OF GUESTS

Airman 1<sup>st</sup> Class Robert Mora, guest of Rep. Nedeau. Hon. Roland Dupuis, guest of the Municipal and County Government Committee. Hon. Janet Fortnam, guest of the Pembroke delegation.

## SPECIAL GUESTS

Members of the 2003 Concord National Little League Softball team, the 2003 State Championship team which placed 4<sup>th</sup> in the Eastern Regional Championship, with Coach Brett Houston were guests of the House.

## CALL OF THE ROLL

With 339 members having answered the call of the roll, the Chair declared a quorum present.

## AMENDMENT TO HOUSE RULES

The Rules Committee offered the following:

### **Amendment (2576h)**

Amend House Rule 30(o) to read as follows:

(o) It shall be the duty of the Committee on Public Works and Highways to consider all matters pertaining to public highways, buildings and capital construction; the capital budget; *matters pertaining to state bonding authority*; matters pertaining to the protection, improvement and preservation of the coastline; the care of state memorials and monuments; and such other matters as may be referred to it.

Amend House Rule 46(e) to read as follows:

*(e) All bills affecting state bonding authority, if approved by the House when reported by the appropriate policy committee, shall be referred to the Committee on Public Works and Highways.*

*(f) The chairmen of committees receiving a bill or referral as outlined in this rule with the approval of the Speaker may decline the referral of any bill from another committee or, notwithstanding the provisions of Rule 43 (a), waive the public hearing on any bill referred from another committee.*

Rep. Burling spoke in favor.

Adopted by the necessary two-thirds.

## COMMITTEE REPORTS

### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 351**, requiring completion of a child impact seminar prior to filing for divorce, removed by Rep. Hopper.

**HB 176**, relative to listing candidates on ballots, removed by Rep. Burling.

**HB 559**, relative to grounds for termination of employment, removed by Rep. Lars Christiansen.

**HB 493**, relative to the municipal budget act, removed by Rep. Patten.

Consent Calendar adopted.

### CONSENT CALENDAR

**HB 532**, relative to notice and filing of divorce petitions. **OUGHT TO PASS WITH AMENDMENT** Rep. Margaret D. Hallyburton for Children and Family Law: The bill proposes the repeal of what has proven to be a cumbersome means of service of process of divorce papers. The committee was comfortable doing that only after amending the bill to provide an alternate means of service – certified mail with return receipt signed by the addressee only. Vote 17-0.

### Amendment (1603h)

Amend the bill by replacing all after the enacting clause with the following:

I Annulment, Divorce and Separation; Procedure; Venue; Notice. RSA 458:9 is repealed and reenacted to read as follows:

458:9 Venue; Notice. All petitions initiated under RSA 168-A, RSA 458, and RSA 458-C shall be brought in the county in which either party lives and before the superior court; and notice thereof shall be given to the respondent as required by this section.

I. If the parties file a joint petition, the petition shall be filed at the appropriate court without further service or notice required.

II. An individual petition shall be filed with the appropriate court, together with the filing fee, by the petitioner. Upon the filing of a petition, the court shall issue orders of notice, attached to the petition, which the petitioner shall then serve on the respondent as provided in this section:

(a) Service within the state shall be made either by:

(i) A sheriff, in hand or by leaving an attested copy of the petition, orders of notice, and an appearance form at the respondent's abode, within 25 days of the date of filing the petition. The return of service shall state the street and number, or some other description, of the abode. The petitioner shall file the return of service with the court as proof of service.

(ii) Certified mail, return receipt requested, restricted delivery, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

(b) Service outside the state shall be made either by:

(i) An officer authorized to make service of process in the state where the respondent lives. Proof of out-of-state service shall be made by a return of the officer under oath, accompanied by an official certificate of his or her official character or authority. The petitioner shall file the return of service with the court as proof of service.

(ii) Certified mail, return receipt requested, restricted delivery, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

III. When the residence of the respondent is not known, the petition shall state the respondent's last known post office address, and the name and post office address of some near relative of the



respondent, if any is known to the petitioner, and otherwise the name and post office address of some friend of the respondent, such facts to be verified by the petitioner's personal affidavit filed with the petition. The petitioner shall file the petition with the court together with the name and address of a newspaper published in the city or town nearest to the respondent's last known address. Service shall then be ordered by publication in the newspaper, with publication to be completed not less than 15 days before the return date, and by certified mail addressed to the respondent, care of the relative or friend of the respondent, or otherwise as the court may order. Publication may be waived for good cause upon motion to the court.

2 Reference Change from Libel to Petition. Amend the following RSA provisions by changing "libel" to "petition": RSA 167-B:1; 458:2; 458:5; 458:7-a; 458:11; 458:12; 458:16; 458:16-b; 458:24; 458:34; and 498:16.

3 Reference Change from Libels to Petitions. Amend the following RSA provisions by changing "libels" to "petitions": RSA 458:2, 458:27, and 458-D:7.

4 Sheriffs and Constables; Fees of Sheriffs and Deputy Sheriffs; Reference Change. Amend RSA 104:31, II to read as follows:

II. For service of a bill, libel or petition, \$15; provided that service of a ~~[libel]~~ *petition* with restraining order shall be \$25.

5 Domestic Relations; Special Fund; Reference Change. Amend RSA 458:17-b to read as follows:

458:17-b Special Fund Established. The supreme court shall establish a separate fund in which to deposit a percentage of the entry fee paid to each clerk of superior court in each ~~[libel and]~~ petition in marital cases for the compensation of mediators, appointed pursuant to RSA 458:15-a, and guardians ad litem, appointed pursuant to RSA 458:17-a, when the parents are indigent. The supreme court shall determine by rule the percentage amount of the entry fee for each ~~[libel and]~~ petition to be deposited into the fund, but at no time shall the percentage amount exceed 50 percent of the entry fee for each ~~[libel and]~~ petition. Payments for services provided shall be paid by the judicial council.

6 Effective Date. This act shall take effect January 1, 2004.

### AMENDED ANALYSIS

This bill:

I. Removes the requirement that the court provide the respondent with 10 days to accept service of a divorce petition.

II. Permits in-state and out-of-state service by certified mail.

III. Changes references to "libel" to "petition"; "libelee" to "respondent"; and "libelant" to "petitioner".

### **HB 541**, relative to the obligation of religious leaders to report child abuse. **REFER FOR INTERIM STUDY**

Rep. Mary Stuart Gile for Children and Family Law: This bill was introduced to amend RSA 516:35 (Privileged Communications, Religious Leaders) to make it consistent with RSA 169-C (New Hampshire's Child Protection Act). Both statutes have been in New Hampshire law since 1979. The complexities resulting from the interpretation and application of RSA 516:35 without the amendment have caused confusion and, too often, tragic consequences for children. Interim study will enable the committee to further research and document problems relating to the ambiguity inherent in these two statutes and to make further recommendations, if necessary. Vote 16-1.

### **HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children. **OUGHT TO PASS WITH AMENDMENT**

Rep. Daniel C. Itse for Children and Family Law: This bill provides that a parent's refusal to administer a psychotropic drug to his or her child shall not, in and of itself, provide grounds for the State to take the child into protective custody under RSA 169-C, the Child Protection Act. This bill also establishes a committee to study the prescription and use of psychotropic drugs, including Ritalin, in child care centers, preschools and public schools. Vote 17-0.

### **Amendment (2524h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Child Protection Act; Protective Custody; Effect of Parent's Refusal to Administer Psychotropic Drug. Amend RSA 169-C:6 by inserting after paragraph VII the following new paragraph:

VIII. The refusal of a parent or other person having control of a child to administer or consent to the administration of any psychotropic drug to such child shall not, in and of itself, constitute grounds for the police or a juvenile probation and parole officer to take the child into custody, or for the court to order that such child be taken into custody. However, if the administration of a decreasing dose of the drug is required during withdrawal from the medication, the refusal may constitute grounds for taking the child into protective custody.

2 Purpose. According to the United States Drug Enforcement Agency, New Hampshire has the highest distribution per capita of Methylphenidate, better known as Ritalin, in the United States. Ritalin is a stimulant marketed to help students and young children who are referred to as hyperactive or who have been diagnosed with attention-deficit/hyperactivity disorder (ADHD) to focus on school work in the classroom. Although the drugs are generally considered safe, scientists acknowledge that they do not fully understand how Ritalin and other stimulants affect children's developing brains. The drugs are not approved for children under 6. Yet, physicians increasingly prescribe such psychotropic medication "off label," a worrisome trend with potentially disconcerting effects on young children. Generally, Ritalin and similar drugs are regarded as performance enhancing medication, used to keep children less active in educational settings where curriculum demands may be highly academic and accelerated. Further study is needed to determine the biological or medical reasons for administering psychotropic drugs, such as Ritalin, to students in public schools, preschools, and childcare centers and to investigate the research documenting the medications' effects on their development, progress in school, and health.

3 Committee Established. There is established a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

4 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

5 Duties. The committee shall:

I. Study the extent of the use of psychotropic drugs, including Ritalin, among children in childcare centers, preschools, and public schools, grades K-12.

II. Study where and under what circumstances, including protocols, referrals, and symptoms, psychotropic drugs are prescribed for children ages infant to 5 years and students in grades K-12.

III. Determine if there are regional or geographic clusters of children on Ritalin and whether any connections exist between the prescription and use of such drugs and a child's gender or socioeconomic status.

IV. Determine the extent to which psychotropic drugs, including Ritalin, are prescribed or used for behavior control purposes or performance enhancement in controlled settings such as childcare centers, preschools, and elementary classrooms.

V. Investigate allegations that a parent or guardian's refusal to administer or consent to the administration of any psychotropic medication to his or her child may constitute grounds for taking the child into protective custody.

VI. Examine and document, through a review of scientifically credible research studies, the long-term effects to date, both positive and negative, of the use of psychotropic drugs administered to children from infancy through high school.

VII. Study other issues deemed relevant to the committee's purpose.

VIII. Solicit information and advice from the commissioners of the departments of education and health and human services, child psychologists and psychiatrists, pediatric neurologists, early childhood specialists or child development specialists from the university of New Hampshire, Keene

state college, or Plymouth state college, the New Hampshire Pediatric Society, the Parent Information Center-New Hampshire, the New Hampshire Children's Alliance, Children and Family Services, and any other organization or individual with relevant information or expertise.

**6 Chairperson; Quorum.** The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

**7 Report.** The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

**8 Effective Date.** This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill provides that a parent's refusal to administer a psychotropic drug to his or her child shall not, in and of itself, provide grounds for the state to take the child into protective custody under RSA 169-C, the child protection act. This bill also establishes a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

**HB 587-FN**, relative to reimbursement for services provided in delinquency, children in need of services, and abuse and neglect proceedings. **INEXPEDIENT TO LEGISLATE**  
Rep. Karen K. McRae for Children and Family Law: The committee voted this bill Inexpedient to Legislate because all the various stakeholders came to the table and worked together to arrive at a solution that did not require this legislation. Vote 16-1.

**HB 726-FN**, relative to enforcement of spousal support orders by the department of health and human services. **REFER FOR INTERIM STUDY**  
Rep. Cynthia J. Dokmo for Children and Family Law: The committee supports the implementation of a system to enable the Department of Health and Human Services to enforce spousal support orders. However, to do so in a fiscally responsible manner, a change must be made at the federal level. The sponsor has been working with Senator Judd Gregg on this issue, and is hopeful that the federal law will be amended to facilitate this process. Therefore, the committee desires to hold this bill for further study in anticipation of this change. Vote 15-2.

**HB 141**, prohibiting the use of automatic dialing systems for telephone solicitation. **INEXPEDIENT TO LEGISLATE**  
Rep. Leo W. Fraser Jr. for Commerce: Because of the enactment of federal legislation promulgated by the Federal Communications Commission which addresses the use of automatic dialing systems for telephone solicitation, the prime sponsor felt that this legislation was no longer necessary, and she requested that we report the bill as Inexpedient to Legislate. Vote 12-0.

**HB 174**, relative to homeowner's insurance and the ownership of certain breeds of dogs. **INEXPEDIENT TO LEGISLATE**  
Rep. Leo W. Fraser Jr. for Commerce: This legislation would prohibit insurance companies from non-renewing or canceling a homeowner's policy because of ownership of certain breeds of dogs. Finding insurance is a very difficult issue for policyholders who own animals (that were in their care, custody or control). Some companies would not insure if the prospective policyholder owned a certain breed of dog. Others raised concerns that the animal had a propensity to bite, and still other companies wrote the insurance without consideration of the ownership or control of the animal. In other words, the insurance companies ran the gamut so far as underwriting of homeowners' insurance policies. Now pending before the New Hampshire Insurance Department is a filing (which is expected to be approved immediately) that would offer anyone who owns an animal an exclusion for bodily injury and property damage for the animal in their care, custody or control. If the policyholder accepted the exclusion, which would identify the animal, the carrier could then write the policy. With the introduction of the new filing, the Commerce Committee was unanimous in reporting this legislation to the full House as Inexpedient to Legislate. Vote 12-0.

**HB 342**, restricting the use and display of social security numbers and establishing a private right of action under the right to privacy act. **REFER FOR INTERIM STUDY**

Rep. Randolph N. Holden for Commerce: This bill would restrict the public display of social security numbers. The subcommittee had 13 meetings, spent over 30 hours, and saw countless amendments. The only people to testify in favor of the bill were the sponsors; those opposed, however, ranged from the banks, to the counties' registry of deeds, to the credit bureaus, and to the Chiefs of Police. The subcommittee could not go forward due to a major impasse. The critical question is whether we should ban the use of social security numbers on documents that are recorded at the registry of deeds. The sponsors feel that the potential abuse by identity fraud outweighs the need by credit bureaus and law enforcement to have social security numbers on the documents, but some court orders and old mortgage forms may have the numbers. No one is required to place his or her social security number on a document that he or she is signing, and there is no law barring someone from removing it. As a result, and out of respect for the subject matter, the full committee voted to recommend Interim Study. Vote 12-1.

**HB 347, limiting access to certain business records. REFER FOR INTERIM STUDY**

Rep. Paul D. Spiess for Commerce: The State of Maine has adopted legislation to maximize tax collection efforts for businesses domiciled out of state. The purpose of this bill is to provide the means for New Hampshire businesses to protect themselves from unrestricted and aggressive collection efforts. Since unrestricted access to business records can place a significant hardship on small businesses, the committee believes that further study of the issue is appropriate. Vote 13-0.

**HB 382, relative to state-funded health insurance. REFER FOR INTERIM STUDY**

Rep. Paul D. Spiess for Commerce: The intent of this bill is to prohibit any increase in benefits to the Healthy Kids Program without prior consent of the Legislature, and to prohibit the expansion of the program to low-income adults. Since the program is funded through the State Budget, the committee questions the need to pass legislation to limit programs that are subject to biennial budget scrutiny. The committee was also concerned that passing this legislation could jeopardize future sources of funding from the federal government or third parties. However, since the expansion of programs from outside sources could commit the state to future funding, the committee agreed to study the issue. Vote 12-0.

**HB 459, relative to market conduct examinations. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser Jr. for Commerce: The original proposed legislation was introduced at the request of the New Hampshire Insurance Department. Subsequently, the Department advised that this bill is no longer necessary. The committee, rather than disposing of the bill completely, replaced the entire bill with a non-germane amendment. The bill now is the so-called "manufactured housing bill" that passed the House in the last session. When the bill went to the Senate, an amendment was attached. Because of the amendment, the Governor vetoed the bill. Using HB 459 as a vehicle, the Commerce Committee was unanimous in amending HB 459 to include, in total, the original manufactured housing bill without the controversial Senate amendment relative to campgrounds. The manufactured housing bill allows taxing manufactured housing as real property. Vote 14-0.

**Amendment (2471h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the taxation of manufactured housing.

Amend the bill by replacing all after the enacting clause with the following:

1 Property Tax; Manufactured Housing. Amend RSA 72:7-a to read as follows:  
72:7-a Manufactured Housing.

1. Manufactured housing suitable for use for domestic, commercial or industrial purposes is taxable *as real estate* in the town in which it is located on April 1 in any year if it was brought into the state on or before April 1 and remains here after June 15 in any year; except that manufactured housing as determined by the commissioner of revenue administration, registered in this state for touring or pleasure and not remaining in any one town, city or unincorporated place for more than 45 days, except for storage only, shall be exempt from taxation. This paragraph shall not apply to manufactured housing held for sale or storage by an agent or dealer.

1-a. Manufactured housing suitable for use for domestic, commercial or industrial purposes is taxable *as real estate* in the town, city or unincorporated place to which it is brought and located after April 1 and before the following January 1, provided that said manufactured housing remains in said town, city or unincorporated place for more than 10 weeks, except for storage only, and

further provided a tax has not been assessed on it elsewhere in the state for that year. The tax shall be for the pro rata part of the tax year remaining when said manufactured housing became located in the town, city or unincorporated place. The selectmen or assessors may so require and it shall be an obligation of the owner to file with the selectmen or assessors a true and correct inventory of the property subject to taxation under this paragraph within 15 days of the location of the manufactured housing in such form as the commissioner of revenue administration may prescribe.

II. There shall be a lien for uncollected taxes upon any manufactured housing suitable for use for domestic, commercial or industrial purposes that has been taxed pursuant to paragraphs I and I-a. Said lien shall take precedence over all other liens and encumbrances upon said manufactured housing and shall continue in force until 1-½ years from the assessment of the tax. ~~[The tax collector shall file with the town or city clerk, and with the register of deeds for the county in which the manufactured housing is then located, a copy of a document stating the existence of any such lien, the amount of the uncollected taxes secured by the lien, the name and address of the person liable for the tax as of the date of its assessment, and a description of the manufactured housing upon which the tax has been assessed. The town or city clerk shall keep a file of such documents, which shall be open to public inspection. Upon payment, release, or satisfaction of the lien, the tax collector shall file a notice thereof with the town or city clerk and with the register of deeds. There shall be no fees chargeable for any such filings with the town or city clerk.]~~ *Such taxes shall be subject to the collection procedures set forth in RSA 80 for real estate taxes.*

2 New Section; Proceedings Against Real Estate; Manufactured Housing; Mortgage. Amend RSA 80 by inserting after section 18 the following new section:

80:18-a Definition; Mortgage; Manufactured Housing. In this chapter, "mortgage" shall include a security interest in manufactured housing created and perfected as authorized by RSA 477:44, IV. A mortgagee shall include a holder of such a security interest.

3 Personal Property Lien; Manufactured Housing Removed. Amend RSA 454-C:3, II to read as follows:

II. Except as otherwise provided in RSA 454-C:7, and only as to federal[;] *and* state[; ~~and manufactured housing~~] tax liens, whenever any such lien, or a full release of any such lien, is filed with a city or town clerk, the clerk shall within 2 business days transmit to the secretary of state, by mail or other medium prescribed or authorized by the secretary of state, a copy of, or an electronic record of all information contained in, the notice of filing of lien or notice of full release of lien submitted by the person or agency filing the lien or release pursuant to RSA 454-C:2. The term "business day" as used in the preceding sentence shall mean a day on which the clerk's office is open for business. Only the notice itself or electronic record thereof shall be so transmitted, not the other lien documentation filed with the notice. The secretary of state within 3 business days of such receipt shall enter an image of the notice or the information contained therein in the index, and shall periodically transmit to each such clerk an acknowledgment of receipt of such notices or electronic records. Pursuant to the statutes providing for the filing of each type of lien listed in RSA 454-C:1, I, no such liens other than federal[;] *and* state[; ~~and manufactured housing~~] tax liens will be filed with city or town clerks subsequent to the effective date of this chapter.

4 Personal Property Lien Index; Transition Period; Manufactured Housing Removed. Amend RSA 454-C:7, IV to read as follows:

IV. Notwithstanding the provisions of RSA 454-C:3, whenever a full release of any pre-effective-date federal[;] *or* state[; ~~or manufactured housing~~] tax lien is filed with a town or city clerk, and (in the case of federal tax liens) a notice of filing of such lien or electronic record thereof has not previously been transmitted to the secretary of state pursuant to paragraph II, such clerk shall remove the lien being released from the file, and shall not forward the notice of full release to the secretary of state; and whenever a full release of any pre-effective-date lien of any type is filed with the secretary of state, and information regarding such lien has not previously been entered in the index pursuant to paragraph III, the secretary of state shall remove the lien being released from the file, and shall not enter an image of the notice of full release, or the information contained therein, in the index.

5 Secretary of State; Removal of Manufactured Tax Lien Index. The secretary of state shall remove from the consolidated lien index maintained pursuant to RSA 454-C:1 all information pertaining to manufactured housing tax liens filed and maintained prior to the repeal by this act of RSA 454-C:1, I(j). Such removal shall not be deemed to invalidate any such lien.

6 Uniform Commercial Code; General Definitions; Security Interest. Amend RSA 382-A:1-201(37) to read as follows:

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The term also includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Except as otherwise provided in Section 2-505, the right of a seller or lessor of goods under Article 2 or 2A to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with Article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (Section 2-401) is limited in effect to a reservation of a "security interest". *Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and:*

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(c) the lessee has an option to renew the lease or to become the owner of the goods,

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

*A rent-to-own agreement, as defined in RSA 358-P:2, V, shall not create or be construed as a "security interest".*

7 Repeal. RSA 454-C:1, I(j), relative to the index of manufactured housing tax liens, is repealed.

8 Effective Date. This act shall take effect upon its passage.

## AMENDED ANALYSIS

This bill provides that manufactured housing shall be taxed and treated as real estate, and eliminates the separate manufactured housing tax lien system.

The bill makes a change to the definition of security interest in the uniform commercial code.

**HB 545**, requiring building contractors to disclose the name of any subcontractors involved in the project. **REFER FOR INTERIM STUDY**

Rep. Angeline A. Kopka for Commerce: The sponsor, the homebuilders' industry and the Attorney General's Office are all currently working on more appropriate language to solve the problem regarding contractors. With this in mind, the committee felt it only prudent to recommend Interim Study. Vote 14-0.

**HB 739-FN-A**, relative to the medicaid provider reimbursement system; and business and enterprise tax deductions for employers that offer long term care policies; study of the nursing leveraged scholarship program; development of a plan to establish nursing programs at the community technical colleges; the information and referral network for elderly and chronically ill adults and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Randolph N. Holden for Commerce: Most of the issues in this bill were addressed in the budget and therefore it would be repetitive to pass again. As a result of this, the committee found this legislation unnecessary. Vote 12-0.

**HB 759**, relative to personal health and financial information privacy. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The purpose of this bill is to extend the provisions of the Health Insurance Portability and Accountability Act (HIPAA) to insurance institutions defined under a different federal law known as Gramm, Leach, Bliley. Under HIPAA, health insurers are required to obtain affirmative authorization from consumers ("opt-in") before disclosing certain personal health and financial information. Under Gramm, Leach, Bliley, the consumer must choose to "opt out" if they do not want information shared with non-affiliates of the institution. The committee believes that both of these acts are still in the implementation phase, and should be given time to evaluate their effectiveness. Further, the committee did not receive any direct testimony to indicate abuse or the need for preemptive action. The committee is very concerned that any state law that goes beyond these federal statutes could severely affect the price and availability of different health insurance products in New Hampshire. Passage of this bill would make New Hampshire an unattractive state to do business. Vote 11-1.

**HB 771-FN**, repealing exemptions to the consumer protection act. **REFER FOR INTERIM STUDY**

Rep. Anthony R. DiFruscia for Commerce: The committee recommends that this consumer reform bill be studied further. Extensive study is needed since all members are of the opinion that the law needs a re-examination in its entirety in order to bring it up to the 21st Century. Vote 12-0.

**HB 815**, relative to the duties of corporate directors and the procedure for shareholder inspection of records under the New Hampshire Business Corporation Act. **REFER FOR INTERIM STUDY**

Rep. Stephen B. Stepanek for Commerce: This bill would allow a shareholder, with as little as one share of stock, to initially bypass the court and request a company's shareholder list through an administrative hearing at the Secretary of State's Office. This bill would apply only to publicly traded companies incorporated in the State of New Hampshire. Due to the very small number of companies which would actually be subject to this bill, there are questions as to whether there are adequate safeguards to oversee the proper use of the list, and serious questions as to whether this procedure would truly expedite the process. Vote 13-1.

**HB 832-FN**, relative to the privacy of medical records. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser Jr. for Commerce: The committee recommends this bill be voted Inexpedient to Legislate for a number of reasons. The Health Insurance Portability and Accountability Act (HIPAA) just went into effect on April 14, 2003. All health care providers and health plans must comply with the HIPAA privacy rules. The provisions of HB 832 are stricter than the HIPAA privacy rules. If this bill were adopted, this could impact health care costs in New Hampshire. Health care providers and health plans would have to set up two standards of compliance: state law and fed-

eral law. Compliance with a conflicting state privacy standard would be difficult to determine. HIPAA provides specific requirements for what is contained in an authorization form for release of health information. There is no need to duplicate or complicate New Hampshire compliance. In addition, this federal law has a specific and clear definition of marketing, while the definition of marketing in HB 832 is vague. Testimony before the committee did not reveal examples of misuse of medical information in New Hampshire, so the committee did not feel that New Hampshire's laws should be stricter than the federal regulations. Also, RSA 332:1 does not need to be changed to include pharmacists because HIPAA covers pharmacists under its privacy rules. Should New Hampshire adopt its own version of privacy legislation which would be in conflict with HIPAA, this would result in undermining last year's legislation to entice more insurance companies and more health insurance options into New Hampshire. The committee was unanimous in the position that unless and until HIPAA has an opportunity to mature, any changes would be untimely and inappropriate. Vote 12-0.

**SB 99, relative to high cost mortgage loans. OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: This bill, as originally submitted, was intended to insert parts of the federal Home Ownership and Equity Protection Act (HOEPA) into New Hampshire statutes which regulate first and second mortgage loans. HOEPA sets limits on the rate of interest that can be charged on home equity loans. The committee amended the bill to adopt the provisions of the federal statute in its entirety, and to make a violation of HOEPA a violation of RSA 397 and RSA 398. Vote 11-0.

**Amendment (2468h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to compliance with federal law in the making of first and second mortgage loans.

Amend the bill by replacing all after the enacting clause with the following:

I New Paragraph; Definitions; "HOEPA." Amend RSA 397-A:1 by inserting after paragraph III the following new paragraph:

III-a. "HOEPA" means the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. section 1639 et. seq., as amended.

2 New Paragraph; License Application; Requirements; HOEPA Compliance. Amend RSA 397-A:5 by inserting after paragraph IV the following new paragraph:

V. Licensees shall comply with the provisions of HOEPA at all times.

3 New Paragraph; Definitions; "HOEPA." Amend RSA 398-A:1 by inserting after paragraph III the following new paragraph:

III-a. "HOEPA" means the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. section 1639 et. seq., as amended.

4 Revocation; Violation of HOEPA. Amend RSA 398-A:1-b, I (a) to read as follows:

(a) Has violated any provisions of this chapter, [or] rules or orders thereunder, *or the provisions of HOEPA*;

5 Effective Date. This act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill requires first and second mortgage brokers to comply with the provisions of the Home Ownership and Equity Protection Act of 1994, 15 U.S. C. section 1639 et. seq., as amended.

**HB 138-FN, relative to interpreters for the deaf in certain governmental or public proceedings. REFER FOR INTERIM STUDY**

Rep. Alan B. Bemis for Criminal Justice and Public Safety: The committee feels that an interim study is needed because the parties involved cannot agree on this bill. Based on the lack of agreement, the committee wants to be fair and continue the study. The issue of a 28-a mandate problem still exists in the bill. Vote 17-0.

**HB 276-FN, relative to protective custody for intoxicated or incapacitated persons. REFER FOR INTERIM STUDY**

Rep. Stephen H. Nedeau for Criminal Justice and Public Safety: There was discussion with the Department of Safety and others about there not being enough time to fully study this problem.



We have requested more time and information. There is currently an ad hoc committee working within the law enforcement community to help resolve the issues and report back to the Criminal Justice and Public Safety Committee. Vote 18-0.

**HB 355-FN**, relative to the permissible fireworks review committee, the fireworks license fee, and the authority of the permissible fireworks inspector. **REFER FOR INTERIM STUDY**  
Rep. Karl I. Gilbert for Criminal Justice and Public Safety: It was determined that this bill was very similar in content to HB 664-FN. Therefore, it was decided to refer it for interim study while working on HB 664-FN. Vote 16-0.

**HB 403**, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders. **OUGHT TO PASS WITH AMENDMENT**  
Rep. William V. Knowles for Criminal Justice and Public Safety: This bill requires persons found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender. RSA 651-B has been revised to accommodate this change. The previous statute required a conviction for registration. The new definition reads as follows: 651-B:1 VII "Required to Register" means that a sexual offender or offender against children was charged with an offense or an attempt to commit an offense listed in this chapter that resulted in one of the following outcomes: (a) conviction for the offense; or (b) a finding or not guilty by reason of insanity. RSA 651-B:7, VI (a) was amended to correct an error. The age difference should have been three years or less at the time of the offense, not more than three years, as written. Vote 18-0.

#### Amendment (2509h)

Amend the title of the bill by replacing it with the following:

AN ACT requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender.

Amend the bill by replacing all after the enacting clause with the following:

1 Registration of Criminal Offenders; Definitions. Amend the introductory paragraph to RSA 651-B:1, III to read as follows:

III. "Sexual offender" means a person who [~~has been convicted~~] *is required to register as a result* of any violation or attempted violation of:

2 Registration of Criminal Offenders; Definitions. Amend the introductory paragraph to RSA 651-B:1, V to read as follows

V. "Offender against children" means a person who [~~has been convicted~~] *is required to register as a result* of any violation or attempted violation of:

3 New Paragraph; Registration of Criminal Offenders; Definitions. Amend RSA 651-B:1 by inserting after paragraph VI the following new paragraph:

VII. "Required to register" means that a sexual offender or offender against children was charged with an offense or an attempt to commit an offense listed in this chapter that resulted in one of the following outcomes:

(a) Conviction for the offense; or

(b) A finding of not guilty by reason of insanity.

4 Registration of Criminal Offenders; Release of Certain Sexual Offenders into the Community. Amend RSA 651-B:3, I to read as follows:

I. Upon release of any sexual offender or offender against children [~~after conviction~~] *required to register*, whether on probation, parole, conditional or unconditional release, completion of sentence, *release from secure psychiatric care*, or for any other reason, the official in charge of such release shall notify the offender of the offender's duty to report under this chapter. The offender shall acknowledge in writing that he has received such notice. The official shall obtain the address at which the offender expects to reside upon release and shall report such address to the department. The department shall inform the local law enforcement agency where the offender expects to reside. The division shall enter the information concerning the offender's release and notification in the LENS system.

5 Registration of Criminal Offenders; Duty to Report. Amend RSA 651-B:4, I(a) to read as follows:

(a)(I) Any person required to be registered under this chapter shall report such person's current mailing address, place of residence or temporary domicile, and place of employment or

schooling to the local law enforcement agency within 30 days after the person's release ~~[from custody following conviction]~~ **as required under RSA 651-B:3** or within 30 days after the person's date of establishment of residence in New Hampshire if ~~[convicted elsewhere]~~ **the person is required to register as a result of an offense committed in another jurisdiction**. Such report shall also be made annually within 30 days after each anniversary of the person's date of birth and additionally within 30 days after any change of address or place of residence.

6 Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6 to read as follows:

651-B:6 Duration of Registration.

I. Any sexual offender ~~[convicted]~~ **required to register as a result** of a violation or attempted violation of RSA 632-A:2, 632-A:3, or 645:1, III, and any offender against children ~~[convicted]~~ **required to register as a result** of a violation or attempted violation of RSA 169-B:41, II, 633:1, 633:2, 639:2, 639:3, III, 645:2, II, 649-A:3, I, 649-B:3, 649-B:4, or 650:2, II, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for life.

II. Any sexual offender ~~[convicted]~~ **required to register as a result** of a violation or attempted violation of RSA 632-A:4~~[-(a)]~~ or RSA 645:1, II, and any offender against children ~~[convicted]~~ **required to register as a result** of a violation or attempted violation of RSA 633:3 or 645:2, I, or of an equivalent offense in an out-of-state jurisdiction, shall be registered for a 10-year period from the date of release ~~[following conviction]~~, provided that any such registration period shall not run concurrently with any registration period resulting from a subsequent ~~[conviction]~~ **violation or attempted violation of an offense for which the person is required to register**.

III. Notwithstanding the provisions of paragraph II, any sexual offender or offender against children who ~~[has been convicted]~~ **is required to register as a result** of more than one offense listed in RSA 651-B:1, III or RSA 651-B:1, V, or who is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b) shall be registered for life.

7 Registration of Criminal Offenders; Availability of Information to the Public. Amend RSA 651-B:7, II-III to read as follows:

II.(a) The division shall maintain a separate list of all individuals registered pursuant to this chapter who ~~[have been convicted]~~ **are required to register as a result** of any violation or attempted violation of one of the following offenses, or of any law of another state or the federal government reasonably equivalent to one of the following offenses:

(1) RSA 632-A:2, I(l).

(2) RSA 632-A:2, II-III.

(3) RSA 632-A:3, II, provided that the age difference between the convicted individual and the victim was more than 3 years at the time of the offense.

(4) RSA 632-A:3, III.

(5) RSA 645:1, II-III.

(6) Any offense described in RSA 651-B:1, V.

(b)(1) The list described in subparagraph (a) shall include:

(A) The name, address, and date of birth of the registered individual.

(B) The offense for which the individual ~~[was convicted]~~ **is required to register**.

(C) The date and court of the ~~[conviction]~~ **adjudication on the offense** for which the individual is registered.

(D) Outstanding arrest warrants, and the information listed in subparagraphs (b)(1)(A)-(C), for any sexual offender or offender against children who has not complied with the obligation to register under this chapter.

(E) A photograph or physical description of the individual, if available.

(2) Where such information is available, the list may also include:

(A) The date and court of the individual's other convictions, if any.

(B) Information on the profile of the victim or victims of the individual's offense or offenses.

(C) The method of approach utilized by the individual.

(3) In no event shall the list include the identity of any victim.

III. At periodic intervals, not less frequently than once each month, the commissioner of the department of corrections ~~[and]~~, the superintendent of each county department of corrections, ~~and~~ **the commissioner of the department of health and human services** shall forward to the division

a statement identifying every offender who is confined in a facility under their control who ~~[has committed]~~ **is required to register as a result of** an offense described in subparagraph II(a), and who is eligible at that time for any unsupervised work detail, **release into the community following secure psychiatric care**, or other assignment which may bring the offender into contact with members of the public. These statements shall include the information set forth in subparagraphs II(b)(1)(A), (B), and (C), and may also include the information set forth in subparagraphs II(b)(2)(A)-(D). In no event shall the statements include the identity of any victim. These statements shall be incorporated by the division into the list maintained under paragraph II.

8 Registration of Criminal Offenders; Availability of Information. Amend RSA 651-B:7, VI (a) to read as follows:

VI.(a) Notwithstanding the provisions of this section, any individual required to be registered whose name and information is contained on the list described in subparagraph II(a) and who has been convicted of any violation or attempted violation of RSA 632-A:2, III or RSA 632-A:3, II, provided that the age difference between the convicted individual and the victim was ~~[more than]~~ **3 years or less** at the time of the offense and the person has no prior convictions requiring registration under RSA 651-B:2, may file with the clerk of the superior court for the county in which the judgment was rendered an application for review of the public registration requirement contained in RSA 651-B:7. This application shall not be filed prior to the completion of all the terms and conditions of the sentence and in no case earlier than 10 years after the date of release following conviction. After review of the application, the court may schedule a hearing.

9 Registration of Criminal Offenders; Penalty. Amend RSA 651-B:9, I-III to read as follows:

I. A sexual offender or offender against children **who is required to register under this chapter and** who negligently fails to comply with the requirements of this chapter shall be guilty of a violation.

II. A sexual offender or offender against children **who is required to register under this chapter and** who knowingly fails to comply with the requirements of this chapter shall be guilty of a misdemeanor.

III. A sexual offender or offender against children previously convicted of a misdemeanor pursuant to paragraph II **who is required to register under this chapter and** who knowingly fails to comply with the requirements of this chapter shall be guilty of a class B felony.

10 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill clarifies the law regarding registration as a criminal offender and also requires a person found not guilty of committing certain sexual offenses by reason of insanity to register as a criminal offender.

**HB 433**, establishing a committee to study the feasibility of implementing the Second Chance drug rehabilitation program in the New Hampshire prison system. **INEXPEDIENT TO LEGISLATE**  
Rep. John E. Tholl for Criminal Justice and Public Safety: This bill would establish a study committee to study the implementation of the Second Chance drug rehabilitation program in the New Hampshire prison system. The committee's unanimous vote of 18-0 reflects the belief that with all the present problems in the system and the lack of a sitting Commissioner, not to mention the funding problems, now is not the time to consider adding programs, especially in light of the Department of Corrections having to reduce and/or eliminate programs already in existence due to funding cuts. Vote 18-0.

**HB 640-FN**, relative to post-conviction DNA testing. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill makes provision for a person in custody pursuant to a judgment of a court, or adjudication as a delinquent, to petition the court for forensic DNA testing of biological evidence. It sets forth the procedure to be followed in making a petition to the court and the factors that must be established. If the petition is granted, it sets forth the procedure under which the testing will be conducted. Finally, the bill addresses the preservation of biological material and a process to allow for the disposal of evidence after five years. Vote 18-0.

### Amendment (2382h)

Amend the bill by replacing all after the enacting clause with the following:

I New Chapter; Post-Conviction DNA Testing. Amend RSA by inserting after chapter 651-C the following new chapter:

CHAPTER 651-D  
POST-CONVICTION DNA TESTING

651-D:1 Definitions. In this chapter:

- I. "Department" means the department of safety.
- II. "Division" means the division of state police, department of safety.
- III. "DNA" means deoxyribonucleic acid.
- IV. "DNA sample" means a blood, tissue, or hair follicle sample provided by any person or submitted to the division for analysis or storage or both.
- V. "Investigating agency" means the law enforcement agency that investigated a case resulting in a conviction in which biological material was collected as evidence during the course of the investigation.

651-D:2 Post-Conviction DNA Testing of Biological Material.

I. A person in custody pursuant to the judgment of court may, at any time after conviction or adjudication as a delinquent, petition the court for forensic DNA testing of any biological material. The petition shall, under penalty of perjury:

(a) Explain why the identity of the petitioner was or should have been a significant issue during court proceedings.

(b) Explain why, in light of all the circumstances, the requested DNA testing will exonerate the petitioner and demonstrate his or her innocence by proving that the petitioner has been misidentified as the perpetrator of, or accomplice to, the crime for which the petitioner was convicted.

(c) Make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing which is sought.

(d) Explain why the evidence sought to be tested by the petitioner was not previously subjected to DNA testing, or explain how the evidence can be subjected to retesting with different DNA techniques that provide a reasonable probability of reliable and probative results.

II. The court shall notify the office of the attorney general, or the county attorney who prosecuted the case, of a petition made under this section and shall afford an opportunity to respond. Upon receiving notice of a petition made under this section, the attorney general, or county attorney who prosecuted the case, shall take such steps as are necessary to ensure that any remaining biological material obtained in connection with the case or investigation is preserved pending the completion of proceedings under this section.

III. The court may order DNA testing pursuant to an application made under this section upon finding that the petitioner has established each of the following factors by clear and convincing evidence:

(a) The evidence to be tested was secured in relation to the investigation or prosecution that resulted in the petitioner's conviction or sentence, and is available and in a condition that would permit the DNA testing that is requested in the motion.

(b) The evidence to be tested has been subject to a chain of custody sufficient to establish it has not been substituted, tampered with, replaced, or altered in any material aspect.

(c) Identity was a significant issue in the proceeding that resulted in the petitioner's conviction or sentence, or the petitioner has presented clear and convincing evidence of mistaken identity in a motion for new trial or in a habeas corpus proceeding asserting ineffective assistance of counsel for failing to assert a defense of mistaken identity.

(d) The evidence sought to be tested is material to the issue of the petitioner's identity as the perpetrator of, or accomplice to, the crime.

(e) DNA results of the evidence sought to be tested would be material to the issue of the petitioner's identity as the perpetrator of or accomplice to, the crime that resulted in his or her conviction or sentence.

(f) If the requested DNA testing produces exculpatory results, the testing will constitute new, non-cumulative material evidence that will exonerate the petitioner by establishing that he or she was misidentified as the perpetrator or accomplice to the crime.

(g) The evidence sought to be tested was not previously tested using DNA technology or the technology requested was not available at the time of trial.

(h) If DNA or other forensic testing previously was done in connection with the case, the requested DNA test would provide results that are significantly more discriminating and probative on a material issue of identity, and would have a reasonable probability of contradicting prior test results.

(i) The testing requested employs a method generally accepted within the relevant scientific community.

(j) The motion is timely and not unreasonably delayed.

IV. If the court grants the motion for DNA testing, the court's order shall:

(a) Identify the specific evidence to be tested and the DNA technology to be used.

(b) If the court ordered different testing than requested by the petitioner, the court shall explain why the different test was ordered.

(c) Designate New Hampshire state police forensic laboratory to conduct the test.

(d) Designate a laboratory accredited by the American Society of Crime Laboratories Directors Laboratory Accreditation Board (ASCLD/LAB), unless the petitioner and the attorney general or county attorney agree on the laboratory to conduct the test, if the New Hampshire state police forensic laboratory cannot conduct the DNA testing ordered by the court.

V. The cost of DNA testing ordered under this section shall be paid by the petitioner, or by the state, if the petitioner is indigent as determined by the court. The court may appoint counsel for an indigent petitioner under this section.

VI. (a) If the results of DNA testing conducted under this section are unfavorable to the petitioner, the court shall dismiss the application and in cases where the petitioner was convicted of a sexual offense, the court shall forward the test results to the New Hampshire state prison, sex offender program.

(b) In addition to any other substantive or procedural remedies provided by applicable law, if the results of DNA testing conducted under this section are favorable to the petitioner, the court shall order a hearing and shall enter any order that serves the interests of justice, including an order vacating and setting aside the judgment, discharging the petitioner if the petitioner is in custody, re-sentencing the petitioner, or granting a new trial.

VII. Nothing in this chapter shall be construed to limit the circumstances under which a person may obtain DNA testing or other post-conviction relief under any other provision of state or federal law.

#### 651-D:3 Preservation of Biological Material for DNA Testing.

I. The investigating agency shall preserve any biological material obtained in connection with a criminal or delinquency investigation or prosecution for 5 years from the date of conviction or adjudication, or as long as any person connected with that case or investigation remains in custody, whichever is longer.

II. The investigating agency may, however, petition the court to destroy or otherwise dispose of biological material after 5 years even if a person connected with the case is still in custody. If the investigating agency petitions the court to destroy evidence before the person is released from custody, the investigating agency must serve a copy of the petition to destroy biological evidence on the person who remains in custody, any counsel of record, and the prosecuting agency. The investigating agency may destroy biological material after 90 days of filing a petition, unless the investigating agency receives:

(a) A court order preventing the destruction of biological evidence; or

(b) A motion to preserve biological evidence on the grounds that the person in custody intends to file a petition for post-conviction DNA testing pursuant to RSA 651-D:2 within 180 days of the motion to preserve.

#### 651-D:4 DNA Testing and Analysis.

I. The DNA testing and analysis under this chapter shall be performed under the direction of the division, following procedures in conformance with the federal "DNA Identification Act of 1994". Identifying characteristics of the resulting DNA profile shall be stored and maintained by the division consistent with division policy.

II. The division shall prescribe procedures to be used in the collection, submission, identification, analysis, storage and disposition of DNA samples and all DNA information obtained pursuant to this chapter.

III. The division may contract with third parties for the purposes of this chapter. Any DNA sample sent to third parties for analysis shall be coded to maintain confidentiality concerning the donor of the sample.

IV. A certificate and the results of the analysis shall be admissible in any court as evidence of the facts stated in the analysis.

2 Effective Date. This act shall take effect upon its passage.  
Referred to Finance.

**HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Karl I. Gilbert for Criminal Justice and Public Safety: The committee felt that this bill was necessary to clarify the licensing process for vendors to sell fireworks that have been approved by the Fireworks Review Committee for use in the State of New Hampshire. This bill also established guidelines for the meeting of the Fireworks Review Committee. Vote 17-1.

#### Amendment (2519h)

Amend RSA 160-C:3, II-h as inserted by section 1 of the bill by replacing it with the following:

***II-h. The commissioner shall not issue a license under this section unless the commissioner is satisfied that:***

***(a) The application is complete in all respects.***

***(b) The applicant, and any principal controlling owners, directors, natural persons who are members of any business entity, or officers disclosed pursuant to paragraphs II-f and II-g, are at least 21 years of age.***

***(c) In the case of corporate, limited liability company, or partnership applicants controlled by persons who do not reside in the United States, the proposed business would not be managed in a manner which would unduly hinder the commissioner from exercising the commissioner's regulatory responsibilities. Inaccessibility of relevant records or unresponsiveness to inquiries which result from foreign control shall be grounds for revoking or suspending a license which has already been granted.***

Amend RSA 160-C:3 as inserted by section 1 of the bill by deleting RSA 160-C:3, II-i and II-j.

Amend RSA 160-C:3, III as inserted by section 1 of the bill by replacing it with the following:

**III.** The state license may be issued to an applicant who, at the time such license is issued, possesses a permit issued in accordance with the provisions of Title 18, United States Code, governing fireworks, and a permit issued pursuant to RSA 160-C:3, I. No license shall be issued for the sale of permissible fireworks unless the applicant establishes that it will locate its business in a permanent structure which meets all applicable fire safety codes, building codes, zoning codes, and the requirements of local ordinances. No license for the sale of permissible fireworks shall be issued to any person who has been convicted of any offense involving fireworks or explosives within the 2-years prior to the application or who has been found to have violated any fireworks or explosives laws, rules, or regulations within the 2 years prior to the application. No license shall be issued to any person under 21 years of age.

Amend the bill by replacing all after section 3 with the following:

4 Permissible Fireworks Review Committee: Meetings. Amend RSA 160-C:13, II to read as follows:

**II.** The committee shall meet at least once per calendar year, prior to October 1, *and 30 days prior to any testing and approval conducted pursuant to RSA 160-C:13, II, or earlier at the discretion of the chairperson, to ensure that testing and approval guidelines are finalized, safety preparations are complete, and issues relative to the division of labor are addressed. In addition, the committee shall meet at the request of 3 or more members of the committee.*

5 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

I. Changes the requirements for obtaining a state license to sell permissible fireworks.

II. Prohibits the retail sale of firecrackers and bottle rockets.

III. Provides the commissioner of the department of safety with rulemaking authority relative to the licensing of persons responsible for the use of flame, pyrotechnics, or special effects before an audience.

IV. Changes the meeting requirements of the permissible fireworks review committee.

**HB 715-FN**, requiring persons found incompetent to stand trial to be placed in the secure psychiatric unit. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen H. Nedeau for Criminal Justice and Public Safety: After discussion of this bill, the committee felt that the present law, passed in 1999, is a good law. If the law was better used by the system, some of the issues we are facing today would disappear. The Chief Justice should be contacted to explain why the law is not used to its fullest. Vote 17-0.

**HB 783-FN**, relative to penalties for simple assault, reckless conduct, and unsworn falsification. **INEXPEDIENT TO LEGISLATE**

Rep. John E. Tholl for Criminal Justice and Public Safety: This bill was a multi-subject bill. The sponsor offered several changes to the current statute that he felt would narrow the law. He could only list one case where he felt the law was being misapplied. The committee felt that the changes that had been suggested were either already covered in current law or would make the statute virtually unenforceable. Vote 18-0.

**HB 727-FN-L**, revising the school administrative unit system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard C. Leone for Education: This bill was completely amended to form a School Administrative Unit (SAU) legislative oversight committee to monitor all SAU issues. A subcommittee studied the issue extensively by interviewing several school board members, SAU personnel, special education directors, principals, consultants, and members of the general public. This was the thirteenth SAU study since 1962. SAUs have a life of their own. In fact, there has been a 25% increase in the number of SAUs in the last ten years. There is a need for continuous review. Vote 18-0.

**Amendment (2501h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a legislative oversight committee for the school administrative unit system.

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; School Administrative Units; Legislative Oversight Committee. Amend RSA 194-C by inserting after section 10 the following new sections:

194-C:11 Legislative Oversight Committee. An oversight committee shall be established consisting of:

- I. The chairperson of the house education committee, or a designee.
- II. The chairperson of the senate education committee, or a designee.
- III. One member of the house of representatives, appointed by the speaker of the house of representatives.
- IV. One member of the senate, appointed by the senate president.
- V. One member of the house finance committee, appointed by the speaker of the house of representatives.
- VI. One member of the senate finance committee, appointed by the senate president.

194-C:12 Duties of the Legislative Oversight Committee. The oversight committee shall monitor the process of organization and withdrawal of school districts from school administrative units and shall oversee the general operation, creation, or dissolution of school administrative units. The committee shall submit an annual report to the speaker of the house of representatives, the president of the senate, and the state board of education summarizing its findings.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill establishes a legislative oversight committee to oversee the school administrative unit system.

**HB 119**, relative to removing names from the checklist. **INEXPEDIENT TO LEGISLATE**

Rep. Howard C. Dickinson for Election Law: The committee strongly supports an ITL report on this bill because it would require the supervisors of the checklist to remove names from the checklist based on "reliable documentary evidence", but nowhere is this type of evidence defined. Vote 13-2.

**HB 158**, allowing the voter to deposit the ballot into the ballot box. **OUGHT TO PASS**

Rep. Harriet E. Cady for Election Law: Now that election machines are being used, the ease of the voter being able to put their own ballots in the machine, and voters' resistance to having their ballots viewed, the committee felt this would eliminate any confrontation at the polls. Vote 11-4.

**HB 235**, relative to removal of political advertising. **INEXPEDIENT TO LEGISLATE**

Rep. Richard B. Drisko for Election Law: The intent of this bill was to amend RSA 664:17, which restricts placement of political advertising on public property, to provide additional clarification and strength. The committee felt that the existing statute was more than adequate. Both state law and local ordinances address in depth the issues proposed in this bill and further emphasis is not necessary, and possibly redundant. Vote 13-0.

**HB 236**, relative to recount application deadlines. **OUGHT TO PASS**

Rep. Harriet E. Cady for Election Law: This bill allows for additional time for a candidate to request a recount should the declaration of the election results not provide the candidate at least 48 hours to consider their request for a recount. Vote 14-0.

**HB 395**, relative to proof of qualifications for voter registration. **INEXPEDIENT TO LEGISLATE**

Rep. Harriet E. Cady for Election Law: The Help America Vote Act (HAVA) has provided for the forms of identification, and the committee believes there should not be conflict in federal election requirements and state requirements. Vote 15-0.

**HB 583-FN**, requiring training for election officials. **INEXPEDIENT TO LEGISLATE**

Rep. Mark S. Derby for Election Law: This legislation would mandate a new annual training program for all election officials. The Secretary of State's Office and at least one city already have training programs in place, and it is believed that funds may be available through the federal Help America Vote Act of 2001 (HAVA) to expand and/or help finance these programs or other programs consistent with HAVA guidelines. In addition, the automatic disqualification provision could work hardships on election officials in smaller towns where it is sometimes difficult to recruit enough citizens to serve as election officials. Vote 15-0.

**HB 775**, establishing a New Hampshire presidential primary advisory commission. **REFER FOR INTERIM STUDY**

Rep. Howard C. Dickinson for Election Law: The committee unanimously supports Interim Study for HB 775 because we wish to further explore all means whereby New Hampshire can preserve its first-in-the-nation primary position. To kill HB 775, which sets up a New Hampshire Presidential Primary Advisory Commission, would send a mixed message to the rest of the country, and to pass the bill may limit our options. Vote 13-0.

**HB 820-FN-L**, relative to armed services and overseas voting. **INEXPEDIENT TO LEGISLATE**

Rep. Harriet E. Cady for Election Law: The Help America Vote Act of 2001 (HAVA) has not been implemented, and because some towns do not have facsimile machines or computers, the committee believes this proposal is an Article 28-a problem. Vote 14-0.

**SB 215-FN**, relative to the use of prerecorded telephone messages for political advocacy. **INEXPEDIENT TO LEGISLATE**

Rep. Richard B. Drisko for Election Law: The intent of this bill is to require full identification of candidate and financing source in prerecorded political messages within the first sixty seconds of the connection. The thrust of this bill was included in the report of the Committee of Conference on HB 332 last session, which was subsequently accepted by the House and the Senate. HB 332 required "certain identifying information accompany prerecorded political telephone messages". Vote 13-0.

**HB 503**, relative to septic system construction permits. **OUGHT TO PASS WITH AMENDMENT**

Rep. Burton W. Williams for Environment and Agriculture: This bill clarifies a current statute (RSA 485-A:5-b) and will aid in developing plans for additional in-state disposal capacity to handle existing and future septage volumes. Vote 12-0.

**Amendment (2479h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court acknowledges that providing for the proper disposal of domestic septage at New Hampshire facilities is becoming increasingly difficult for septage haulers serving residents who continue to rely on septic systems. It is clear that additional in-state disposal capac-



ity is needed to handle existing and future septage volumes. Further, the municipal responsibility provisions of RSA 485-A:5-b do not clearly articulate what is intended by the terms "shall provide, or assure access to" a department of environmental services approved facility. This act is intended to clarify terms of compliance, and to further restrict development that generates additional septage in those municipalities without a written agreement, by prohibiting the department from issuing new septic system permits.

2 Water Pollution and Waste Disposal; Municipal Responsibility for Septage. RSA 485-A:5-b is repealed and reenacted to read as follows:

**485:5-b Municipal Responsibility.**

I. Each municipality shall either provide, or assure access to, a department of environmental services approved septage facility or a department approved alternative option for its residents.

II. For the purposes of paragraph I, "provide, or assure access to" shall mean a written agreement with a recipient facility, or department approved alternative option, indicating that the recipient facility agrees to accept septage generated in that municipality. The municipality shall consider providing sufficient annual capacity equal to the number of households with septic multiplied by the average septic tank capacity of 1000 gallons divided by the average septage pump out frequency of 5 years.

III. The department of environmental services shall be prohibited from issuing new septic system construction permits in a municipality after July 1, 2010, until the municipality is in compliance with this section.

3 Report. The commissioner of the department of environmental services shall report to the legislature on the current compliance status of all municipalities under the revised terms of RSA 485-A:5-b, on or before July 1, 2006 and July 1 each year thereafter through 2010.

**4 Effective Date.**

I. RSA 485-A:5-b, II as inserted by section 2 of this act shall take effect January 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill clarifies a definition, and prohibits the department of environmental services from issuing new septic system construction permits to any municipality not in compliance after July 1, 2010.

**HB 154-FN**, establishing a department of financial services. **INEXPEDIENT TO LEGISLATE**  
Rep. Nelson S. Allan for Executive Departments and Administration: This bill would establish a commission to recommend legislation allowing the merger of the banking and insurance departments into a department of financial services. This bill duplicates the governor's commission to assess the operating efficiency of state government (HB 171) and is unnecessary. Vote 13-0.

**HB 170**, relative to the notice of proposed rulemaking under the administrative procedure act. **INEXPEDIENT TO LEGISLATE**

Rep. Nelson S. Allan for Executive Departments and Administration: This bill expands the scope of the fiscal impact statement provided in the notice of proposed rulemaking. The committee felt that the current law (RSA 541-A:3, I and 541-A:6.I(j)) adequately provides fiscal data to law makers to help prevent unfunded mandates. Other revisions to administrative rulemaking will be incorporated through the HB 230 study committee. Vote 13-0.

**HB 341**, relative to performance budgeting of state programs and agencies. **REFER TO COMMITTEE FOR INTERIM STUDY**

Rep. Michael O'Neil for Executive Departments and Administration: The committee felt strongly that more information is needed to evaluate performance based budgeting for state programs and agencies. Vote 18-0.

**HB 473**, relative to the board of mental health practice. **INEXPEDIENT TO LEGISLATE**

Rep. Michael O'Neil for Executive Departments and Administration: This bill would make changes to the membership, duties and procedures of the board of mental health practice. The committee was made aware that the legislative performance audit committee has requested a performance audit of the board. In light of this action, the committee believed any legislation should be postponed pending the audit. Vote 13-0.

**HB 479-FN**, directing the department of administrative services to develop a plan for implementing an electronic purchasing system for the state. **INEXPEDIENT TO LEGISLATE**  
Rep. Nelson S. Allan for Executive Departments and Administration: This bill directs the department of administrative services to plan an electronic purchasing system for the state. After discussion with the Commissioner of Administrative Services, it was pointed out that this subject is currently under consideration by his department. Therefore, there is no need for this legislation. Vote 13-0.

**HB 511**, requiring New Hampshire Hospital security officers to be full-time certified police officers. **OUGHT TO PASS WITH AMENDMENT**  
Rep. William R. Zolla for Executive Departments and Administration: RSA 135:41 establishes the hospital security force under the superintendent of the hospital. This bill would require that the security force be certified as full time police officers. The hospital grounds have undergone and are undergoing a metamorphosis as more and more state agencies are located on that property in addition to the hospital. The need for expanded policing and security are needed to accommodate this expansion. Because the property is state owned, the committee felt that it should be the responsibility of the Department of Safety to oversee the security functions. The amendment to this bill transfers the responsibility for a security force from the hospital superintendent to the Department of Safety whereby appropriate certifications with the attendant police powers required could properly accommodate both past and future expansion. Vote 18-0.

#### Amendment (2402h)

Amend the title of the bill by replacing it with the following:

AN ACT transferring authority over the New Hampshire hospital security force to the department of safety.

Amend the bill by replacing all after the enacting clause with the following:

1 Hospital Security Force. Amend RSA 135:41 to read as follows:

135:41 Hospital Security Force. The ~~[superintendent of the New Hampshire hospital]~~ **commissioner of safety** is authorized to organize a hospital security force for the purpose of patrolling the hospital's buildings, roads, and grounds of the campus of the state office park south and providing for general security on the campus. The hospital security force shall be under the immediate control of and responsible to the ~~[superintendent of the hospital]~~ **commissioner of safety**.

2 Authority. Amend the introductory paragraph of RSA 135:42 to read as follows:

135:42 Authority. All security officers of the hospital security force shall ~~[be ex-officio constables and shall]~~ possess general police powers including the power of arrest, but such powers shall extend only to the campus of the state office park south and only to the period during which such members are on official active duty. The only 2 instances where the authority of members of the hospital security force shall extend beyond the campus of the state office park south are:

3 Qualifications and Training. RSA 135:43 is repealed and reenacted to read as follows:

135:43 Qualifications and Training. The commissioner of safety shall adopt rules, pursuant to RSA 541-A, establishing qualifications and requirements for police training for New Hampshire hospital security officers.

4 New Subparagraph; Department of Safety; Rulemaking. Amend RSA 21-P:14, II by inserting after subparagraph (dd) the following new subparagraph:

(ee) Qualifications and police training requirements for New Hampshire hospital security officers under RSA 135:43.

5 Effective Date. This act shall take effect January 1, 2005.

#### AMENDED ANALYSIS

This bill transfers authority over the New Hampshire hospital security force from the department of health and human services to the department of safety.  
Referred to Finance.

**HB 651-FN**, relative to portability of retirement plan funds into the New Hampshire retirement system and the purchase of prior service. **OUGHT TO PASS WITH AMENDMENT**  
Rep. William R. Zolla for Executive Departments and Administration: The committee felt that this approach would place a severe liability on the system already under pressure from several years of

adverse market conditions. The original bill was amended to set up a procedure for ultra vires or unapproved legislative plans to enter the system under specific guidelines that are in consonance with the IRS Regulations thus protecting the tax-exempt status of the system. In addition, the amendment repeals RSA 100-A:16.I(c) relative to additional contribution by or on behalf of a member in an attempt to further reduce the liabilities of the system thus protecting the longevity of the system. Vote 13-0.

### Amendment (2375h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the purchase of prior service credit by certain political subdivision employee members, and repealing certain provisions permitting additional contributions.

Amend the bill by replacing all after the enacting clause with the following:

1 Retirement System; Political Subdivision Employees; Purchase of Certain Prior Service Credit.  
Amend RSA 100-A:28 to read as follows: \

100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provisions of law which provides wholly or in part at the expense of the state or any other employer, for retirement benefits for employees, teachers, permanent policemen, and permanent firemen employed by the state or such other employer, their widows or other dependents, with respect to the same period of service for which they are eligible for benefits under the terms of this chapter. The provisions of this section shall not apply to any person participating in, or receiving or eligible to receive benefits under the old-age and survivors insurance provisions of Title II of the federal Social Security Act, as amended or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the United States Internal Revenue Code of 1986, as amended. *The provisions of this section shall not apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who had participated in or deemed eligible to receive benefits under a retirement arrangement funded, wholly or in part, by contributions from a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state; provided, that such arrangement shall first be terminated in full, but in no event later than December 31, 2004; and, further provided, that the benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in accordance with the terms and conditions of such terminated retirement arrangement.*

2 Repeal. RSA 100-A:16, I(c), relative to additional contributions by or on behalf of a member, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2004.

### AMENDED ANALYSIS

This bill allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan. The bill also repeals the provisions for making additional contributions for the benefit of a member's retirement allowance.

Referred to Finance.

**HB 686-FN**, relative to health insurance provided through the state. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice L. Pilote for Executive Departments and Administration: The purpose of this bill was to allow interested citizens to purchase health insurance through the state health plan. There was little interest expressed from the public for such a program. Vote 13-0.

**HB 704-FN**, relative to the retirement system classification for the director of field services, department of corrections. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: Testimony by the current Director of Field Services stated that prior to this job, he was a probation officer in the group II retirement group. When he was offered the position, he knew that he would be giving up his group II retirement status. However, the position offered a substantial salary increase at a group I retirement status. This individual knowingly made the decision to take the position. Then, having sec-

ond thoughts about his retirement status, he has come to the legislature. The committee felt that this was an "individual" bill and under current law this individual would qualify for split benefits. Therefore, it would be imprudent to pass legislation for one individual who freely made a decision to take the position at a higher salary with group I retirement. Vote 13-0.

### **HB 712-FN, relative to long-term care. OUGHT TO PASS WITH AMENDMENT**

Rep. Peter F. Bergin for Executive Departments and Administration: The original bill required the Department of Health and Human Services to develop a computer based system for managing, overseeing and collecting uniform data regarding the medicaid waiver program. Also, the bill required the department to publish an annual report on the availability of, need for, and quality of long term care service in each county of the state. In addition, the bill required the Department of Insurance to create an annual consumer guide regarding long term care insurance in New Hampshire. The committee found that presently data is not available to assess the availability of long-term care in each county of the state. As a result, this bill will establish a committee to study methods of improving data collection and services delivery relative to home and community based long-term care services. It will also study the need of a consumer guide on long term care insurance. Vote 17-1.

### **Amendment (2400h)**

Amend the title of the bill by replacing it with the following:

AN ACT: establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

#### **2 Membership and Compensation.**

I. The members of the committee shall be as follows:

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.

II. The committee shall solicit input from representatives of organizations, including but not limited to:

(a) The New Hampshire Institute for Health Policy and Practice at the university of New Hampshire.

(b) County human services departments.

(c) The Community Services Council of New Hampshire.

(d) The division of elderly and adult services, department of health and human services.

(e) The office of state planning and energy programs.

(f) Providers of services for the Home and Community-Based Care for the Elderly and Chronically Ill program (HCBC-ECI).

(g) The department of insurance.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

#### **3 Duties. The committee shall:**

I. Study computer-based case management systems and costs related to implementation of such systems.

II. Identify gaps in service in various regions across the state and how to track such gaps.

III. Review the findings of the committee to study the development of home and community-based long-term supports for the elderly and adults with disabilities (2002, 55), and consider its recommendations for future legislation.

IV. Develop strategies for ensuring that the appropriate providers are aware of the provisions of RSA 151-E:7, pertaining to needs assessments for applicants for nursing facility services, and that clients are provided such assessments, and information and assistance, as set forth in RSA 151-E:9 prior to entering nursing homes.

V. Identify the cost data that would be most useful and meaningful and determine the most appropriate method for obtaining such data, including the basis for each cost, from providers for the Home and Community-Based Care for the Elderly and Chronically Ill Program to assist the state in adopting reimbursement rates that would support appropriate levels of staffing.

VI. Review the need for a consumer guide on long-term care insurance and the type of information that should be included in such a guide. Information considered for publication in a consumer guide shall include, but shall not be limited to: a list of all of the companies that sell long-term care insurance in the state, and the number of complaints and valid complaints filed against each company relative to its long-term care products. If it is determined that a consumer guide should be published, the committee shall determine the appropriate agency to develop, publish, and disseminate such guide.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

### **HB 781-FN-A, establishing the office of corrections ombudsmen. OUGHT TO PASS WITH AMENDMENT**

Rep. Anne Marie Irwin for Executive Departments and Administration: The purpose of this bill is to establish the position of corrections ombudsman. The ombudsman will be an autonomous unclassified employee who will conduct independent investigations of complaints filed by employees and inmates of the Department of Corrections, as well as the general public. The ombudsman will submit reports to the governor and appropriate policy committee's chairmen. This bill was crafted at the request of the study committee established in 2001, and was worked on jointly with the house criminal justice and public safety committee. The position will be administratively attached to the Department of Administrative Services and will take effect July 1, 2005, unless grant funded in advance. \$75,000 is appropriated in FY 2006 for purposes of hiring clerical staff, and purchasing supplies. Vote 18-0.

### **Amendment (2415h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Office of Corrections Ombudsman. Amend RSA 21-H by inserting after section 15 the following new subdivision:

#### **Office of Corrections Ombudsman**

21-H:16 Purpose. The position of corrections ombudsman is established to provide for an autonomous unclassified employee to conduct independent investigations of complaints filed by employees and inmates of the department of corrections.

21-H:17 Office of Corrections Ombudsman Established; Qualifications.

I. There is hereby established the office of corrections ombudsman which shall be administratively attached to the department of administrative services pursuant to RSA 21-G:10. The primary office shall not be physically located at any department of corrections site.

II. The principal executive officer of the office shall be the corrections ombudsman who shall be appointed by the governor with the consent of the council for a term of 5 years. The ombudsman may be re-appointed to serve additional terms. The governor and council may remove the ombudsman only as provided by RSA 4:1.

III. The corrections ombudsman shall be a person of recognized knowledge, judgment, objectivity, and integrity, and shall be qualified to hold the position by reason of education and experience. This may include advanced education in criminal justice, law, or other relevant areas, or experience in security and investigations in the military, corrections, or law enforcement.

IV. The salary of the corrections ombudsman shall be as specified in RSA 94:1-a.

21-H:18 Duties of the Corrections Ombudsman. The corrections ombudsman shall be responsible for:

I. Receiving, investigating, and referring complaints or problems received from inmates of the department of corrections, employees of the department of corrections, members of the general court, and the general public.

II. Upon the corrections ombudsman's own initiative, investigating allegations of harassment and issues related to inmate health or safety.

III. Investigating acts or omissions of department of corrections personnel acting in an official capacity including their compliance with policies and procedures directives adopted by the department.

21-H:19 Staff. The ombudsman shall be authorized to hire clerical support staff necessary for the office to carry out its functions.

21-H:20 Access to Information. Upon request, the corrections ombudsman shall have access to all information, records, and documents in the possession of the department of corrections which the ombudsman deems necessary to conduct the investigation. The department shall assist the ombudsman in obtaining the necessary releases of those documents which are restricted or privileged under law. Upon request, the ombudsman shall be granted entrance to inspect at any time any premises under the control of the department of corrections.

21-H:21 Investigative Process.

I.(a) Upon receiving a complaint from an inmate, department of corrections personnel, a member of the general court, or the general public, and deciding to investigate the complaint, the ombudsman shall notify the complainant and the department of corrections of the existence of the complaint. If the ombudsman declines to investigate, the ombudsman shall notify the complainant in writing of the reasons for the decision. In any case, the ombudsman shall advise a complainant to pursue all administrative remedies available to the complainant prior to the ombudsman beginning an investigation. An ombudsman may commence an investigation prior to the completion of the administrative remedy process.

(b) In the case of sexual harassment or sexual assault cases, a copy of the initial complaint filed with the department shall be forwarded by the department to the ombudsman immediately upon its filing providing that the complainant agrees. The ombudsman shall not be obliged to act upon that initial complaint, but shall retain a copy of such complaint on file at least until the matter is finalized.

(c) The ombudsman may utilize any resources deemed appropriate during the course of the investigation of a complaint.

II. (a) Any written correspondence from the complainant to the ombudsman, and any written correspondence from the ombudsman to the complainant shall be delivered immediately and unopened.

(b) The ombudsman shall maintain confidentiality with respect to all matters under investigation including the identity of the complainant and respondent, and any persons from whom information related to the investigation is acquired, except as necessary in performing the duties of the office.

III. Upon conclusion of an investigation the ombudsman may:

(a) Make recommendations to the department of corrections regarding action to be taken.

(b) Refer the case to the county attorney, attorney general, or to the human resources office of the department of corrections, as the ombudsman deems appropriate.

(c) Notify the legislature concerning desirable statutory changes.

IV. Investigative proceedings conducted by the ombudsman shall not be considered public proceedings under RSA 91-A:1-a, and any associated minutes or records shall not be considered public records under RSA 91-A:4.

V. The ombudsman may publish conclusions, recommendations and suggestions and transmit them to the governor, or to the legislature or any of its committees.

21-H:22 Immunity. No civil action or proceeding shall be commenced against the ombudsman for any act or omission performed pursuant to the provisions of this chapter unless the act or omission is actuated by malice or is grossly negligent, nor shall the ombudsman be compelled to testify in any court or state agency proceeding with respect to any matter involving the exercise of the ombudsman's official duties except as may be necessary to enforce the provisions of this chapter.

21-H:23 Annual Report. The ombudsman shall annually submit a written report summarizing the investigative activities conducted by the office of the ombudsman during that year. Such report

shall include any recommendations for legislative action and shall be submitted to the governor and the chairpersons of the policy committees in the house and senate with jurisdiction over the department.

2 Compensation of State Officers; Corrections Ombudsman. Amend RSA 94:1-a, I(b) by inserting in Grade EE the following:

EE Department of corrections ombudsman

3 New Paragraph; Access to Public Records and Meetings; Exemption. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Records of investigative proceedings conducted by the office of corrections ombudsman.

4 Appropriation. There is hereby appropriated the sum of \$75,000, for the fiscal year ending June 30, 2006, to the office of corrections ombudsman for the purposes of funding the costs of hiring part-time clerical staff, and purchasing office equipment and supplies necessary for the operation of the office. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

5 Applicability; Availability of Federal Funds. This act shall take effect July 1, 2005, or on the date that the commissioner of the department of administrative services certifies to the secretary of state and the director of the office of legislative services that federal funds sufficient to implement this act are available, whichever is earlier.

6 Effective Date.

I. Sections 1-4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes the office of corrections ombudsman which shall be administratively attached to the department of administrative services and includes a \$75,000 appropriation for the fiscal year ending June 30, 2006.

This bill is a request of the study committee established in 2001, 217 (HB361). Referred to Finance.

**SB 128-FN**, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state. **OUGHT TO PASS WITH AMENDMENT** Rep. Maurice L. Pilotte for Executive Departments and Administration: The provisions of this bill was adopted in HB 4 on September 4, 2003. Three oversights subsequently were identified. 1. RSA Section 5-C:24,I established an advisory committee to assist the secretary of state in administering the vital records improvement fund. The list of members of the committee failed to include the secretary of state or designee. 2. RSA Section 5-C:24,II had not established the length of term of the chairperson. 3. RSA 5-C:24,II limited the terms of all members of the advisory committee. This amendment limits the terms of appointed members only. The term limits shall not apply to ex officio members of the advisory committee, i.e. (a) the director of the division of information technology management, department of administrative services, or designee, (b) the state archivist, or designee, (c) the commissioner of health and human services, or designee, (d) the secretary of state or designee. Vote 13-0.

#### Amendment (2377h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the advisory committee assisting the secretary of state in administering the vital records improvement fund.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Advisory Committee, Member Added. Amend RSA 5-C:24, I by inserting after subparagraph (l) the following new subparagraph:

(m) The secretary of state, or designee.

2 Advisory Committee; Terms of Members. Amend RSA 5-C:24, II to read as follows:

II. The members of the committee shall choose a chairperson by majority vote. *The chairperson shall serve for a term of one year, but may be reconfirmed by majority vote for as long as the chairperson remains a member.* Members of the advisory committee shall serve 2-year terms and no *appointed* member shall serve more than 2 consecutive terms. The city and town clerk members shall serve staggered terms [~~and initially one town clerk and one city clerk shall serve for 2 years and one town clerk and one city clerk shall serve for 3 years.~~].

3 Effective Date. This act shall take effect 60 days after its passage.

## AMENDED ANALYSIS

This bill adds a member to the advisory committee assisting the secretary of state in administering the vital records improvement fund. The bill also clarifies the terms of the members of the advisory committee.

**HB 274-A**, making an appropriation for the restoration of the White Island Light Station. **INEXPEDIENT TO LEGISLATE**

Rep. Joseph E. Stone for Finance: The committee was informed that Department of Resources and Economic Development, through the Conservation Plate Fund, will be able to match the dollar-for-dollar requirement of the \$250,000 federal "Save our Treasures" grant. As a result there is no need to appropriate the additional \$125,000 requested in the bill by DRED for the repair of the White Island Light Station. Vote 21-0.

**HB 643-FN**, relative to establishing the family division of the courts statewide. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: The amendment clarifies the legislature's intent to support a family division of the judicial branch. This bill makes the Rockingham and Grafton divisions permanent and asks the Task Force on Family Law to recommend further expansion of the family division. Vote 18-0.

**Amendment (2539h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the family division of the courts.

Amend the bill by replacing all after the enacting clause with the following:

I Intent. It is the intent of the general court that a family division of the courts be implemented statewide in a manner which most expeditiously achieves the goal of providing enhanced services to parties involved in cases relating to divorce, custody, children, domestic violence, and other family law matters. The general court finds that this area of law requires the skills and attention of experienced and committed individuals who are dedicated to serving families and to the appropriate, timely resolution of family law cases in a manner which best services the public interest. The goals of the family division are the respectful treatment of all citizens by justices, marital masters and other family division staff, the prompt and fair resolution of family issues by justices and marital masters specially selected and trained to deal effectively with such issues, the use of alternative dispute resolution to reduce the adversarial nature of proceedings involving families, and the assignment of all family matters of a single family to one family division justice or marital master located in a family division that is geographically accessible to the family.

2 New Subdivision; Family Division Established. Amend RSA 490 by inserting after section 32 the following new subdivision:

**Family Division**

490:33 Family Division. The family division of the courts operating in Rockingham and Grafton counties, pursuant to 1995, 152, shall become a permanent component of the judicial branch on the effective date of this subdivision.

490:34 Jurisdiction. Notwithstanding any law to the contrary, for Grafton county and Rockingham county, jurisdiction over the following matters shall be exclusively exercised through the family division as jurisdiction was previously exercised in the superior, district, and probate courts:

I. Petitions and libels of divorce, and petitions of nullity of marriage, alimony, custody of children, support, and to establish paternity.

II. Actions for support or custody for children of unwed parties.

III. Actions under RSA 169-B, relating to delinquent children.

IV. Actions under RSA 169-C, relating to abused and neglected children.

V. Actions under RSA 169-D, relating to children in need of services.

VI. Actions under RSA 173-B, relating to protection of persons from domestic violence except for concurrent jurisdiction with the superior and district courts to enter temporary protective orders under RSA 173-B:6.

VII. The adoption of children.

VIII. The guardianship of the person of minors.



IX. The termination of parental rights.

X. The change of names of persons who apply therefor in matters relating to jurisdiction in paragraphs I-IX.

490:35 Equity. Notwithstanding any law to the contrary, the family divisions in Grafton county and Rockingham county shall have the powers of courts of equity in cases where subject matter jurisdiction lies with the family division. Suits in equity where subject matter jurisdiction lies with the family division including, but not limited to, petitions and libels of divorce, and petition of nullity of marriage, alimony, custody of children, support, and other similar proceedings may be heard upon oral testimony or depositions, or both, or when both parties consent, or service having been made and a notice of the time and place of the hearing having been given, when both parties appear. Such suits may be heard by any justice of the family division at any time, but nothing contained in this section shall be construed as limiting the power of the family division to have issues of fact framed and tried by a jury, according to the rules in equity, or the course of such proceedings at common law.

3 New Subparagraph; Duty Added. Amend 2002, 250:2, II by inserting after subparagraph (c) the following new subparagraph:

(d) Recommendations for expanding the family division of the courts. In developing its recommendations, the task force shall consider the recommendations in the Report of the Resolution of Family Issues in the Courts Study Committee, dated January 15, 1995. The task force shall also consider any more recent studies and reports on the family division, including recommendations made by any commission established to study the operations of the family division in Grafton county.

4 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill makes the family division of the courts currently operating as a pilot program in Grafton and Rockingham counties a permanent component of the judicial branch.

The bill also requires the task force on family law to study and make recommendations on expanding the family division statewide.

**HB 649-FN-A**, establishing a building permit surcharge to fund regional planning initiatives. **INEXPEDIENT TO LEGISLATE**

Rep. Eric Anderson for Finance: This bill proposes enhanced funding to support UNH's GRANIT system (Geographically Referenced Analysis and Information Transfer) and additional resources for regional planning commissions. Due to major organizational changes ongoing at the Office of State Planning and a flawed funding mechanism, it was not feasible to move these initiatives forward at this time. Vote 18-2.

**HB 746-FN-A**, revising the property tax relief program. **INEXPEDIENT TO LEGISLATE**

Rep. Frederick W. King for Finance: The committee felt that it is inappropriate to modify the property tax relief program since the most recent modifications are only one-year old and fiscal impacts are still under review. The plan will need to be reviewed again when the total effect has been determined. Vote 21-0.

**HB 785-FN**, requiring the commissioner of the department of education to establish a public school choice initiative. **REFER FOR INTERIM STUDY**

Rep. Robert K. Dodge for Finance: The committee agreed that the Fiscal Note contained a lot of assumptions and this bill requires a lot of work to proceed with a viable initiative. We feel that to attain this goal we should work with the Education Committee to further study this legislation. Vote 14-5.

**SB 132-FN-A**, extending the Parents as Teachers program in Sullivan county and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Daniel A. Eaton for Finance: The committee supports the content of this bill and was pleased that it was included in other legislation passed last session. As a result, this bill is unnecessary. Vote 19-0.

**HB 329-FN**, establishing a pilot program for the introduction of Grass Carp into Flints Pond in the town of Hollis. **INEXPEDIENT TO LEGISLATE**

Rep. Peter R. Goyette for Fish and Game: This bill, while well intentioned, proposes to introduce an exotic species to control weeds in Flints Pond. There is no conclusive evidence that these carp will eliminate the milfoil and testimony on the adverse effects to state waterways if the carp ever escape made it a risky experiment at best. Vote 15-0.

**HB 440**, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals. **OUGHT TO PASS WITH AMENDMENT**

Rep. David S. Woodward for Fish and Game: The bill amends present law to clearly define parameters while hunting in the vicinity of public highways. In addition to firearms, it also includes the discharge of a bow and arrow or crossbow and bolt. Vote 16-0.

#### **Amendment (2513h)**

Amend RSA 207:3-c as inserted by section 1 of the bill by replacing it with the following:

207:3-c Use of Firearms in or Across Highway Prohibited. No person shall discharge a firearm in pursuit of wild birds or wild animals from *within 15 feet of the traveled portion of or across any class I through V public highway of the state [including the rights-of-way thereof] or 15 feet from the public right-of-way, whichever is closer to the traveled portion of said highway.* This section shall not apply to those persons holding a special permit pursuant to RSA 207:7-a. Any person convicted of discharging a firearm under the provisions of this section shall be guilty of a violation. *For purposes of this section, "traveled portion" means the portion of public highway normally used by vehicular traffic.*

**HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janeen A. Dalrymple for Health, Human Services and Elderly Affairs: This bill, as amended, is in response to the concerns of administrators of several health care facilities who found omnibus administrative rules - one set of regulations for many types of facilities - to be burdensome and even inappropriate in some instances. To correct this problem, the intent of this bill is that each of the several health facilities listed in statute, Chapter 151, have their own separate set of administrative rules based on the care setting. In addition, those facilities listed under the same statute that have overnight beds must have rules that take into consideration acuity level and facility size. The Department of Health and Human Services will be required to address certain criteria which must be met in writing administrative rules for health care facilities: the criteria are listed under Section 2, IX (a) and (b). The department will be required to write rules separately for each type of health facility. The committee felt that as we move the healthcare system into the future, the "one size fits all" mentality of rules and regulations to be cumbersome and inappropriate in many instances and is not in the best interests of the healthcare system and the general public. This amended bill focuses on bringing the systems rules up to date without sacrificing safety issues necessary for the protection of the public. Vote 11-0.

#### **Amendment (2378h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Health Care Facilities; Rulemaking. Amend the introductory paragraph of RSA 151:9, I to read as follows:

1. The commissioner of the department of health and human services shall adopt ~~[rules, pursuant to RSA 541-A]~~ *a separate set of rules under RSA 541-A, for each classification of health facility based on the care setting and also taking into consideration acuity levels and facility size for those facilities with overnight beds,* relative to:

2 New Paragraph; Rulemaking; Analysis Required. Amend RSA 151:9 by inserting after paragraph VIII the following new paragraph:

IX.(a) When adopting, readopting, or amending rules relative to health facilities, the commissioner of health and human services shall address the following criteria and shall ensure that all criteria are met:

(1) The number of rules and regulations shall be kept at the minimum level necessary to adequately protect the health and safety of consumers.

(2) Rules shall be appropriate to the setting in which services are delivered and the size of the provider delivering services.

(3) Rules shall strike an appropriate balance between the protection afforded and the cost to implement, considering the cost to both the state and the provider.

(b) Any rule that fails to meet the criteria established in subparagraphs (a)(1)-(3) shall be considered to exceed the statutory authority of the agency, be contrary to legislative intent, and be contrary to public interest, and shall be null and void.

3 Home Health Care Providers; Rulemaking. Amend the introductory paragraph of RSA 151:9-a to read as follows:

151:9-a Rules for Home Health Care Providers. The commissioner of the department of health and human services shall adopt rules~~[pursuant to RSA 541-A]~~ *under RSA 541-A*, relative to the licensing of home health care providers *that are separate from rules relative to other health facilities*. Such rules shall be subject to the requirements of RSA 151:9, II-V *and RSA 151:9, IX* and shall include the following:

4 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill clarifies the rulemaking authority of the department of health and human services for health care facilities.

#### **HB 784-FN-L**, relative to long-term care services. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill was retained at a time when several bills and budget requests regarding long-term-care health services were being considered by the legislature. These services had been initiated in a previous session by the passage of SB 409. Essentially, this bill addressed the following issues: (1) It strongly supported the Service-Link information and referral service for elderly and chronically ill adults, but provided no appropriation for those services; (2) It provided for an information and assistance process for those who are Medicaid-eligible for nursing home care to choose other, alternative services such as home-based care and mid-level care; and (3) The bill authorized individuals who are Medicaid-eligible for nursing home care to choose, if appropriate, settings such as home-based care or mid-level care at a cost not to exceed the cost of a nursing facility. The Service-Link Program was included in the new '04-'05 budget. Therefore, the program will continue. Legislation also passed this session to provide information and data analysis about health care providers and health care facilities, including data as to quality of services. The current state budget in fact increased the average cost for mid-level care from fifty percent to sixty percent of the cost for services in nursing facilities. The average cost for home-based care was increased from thirty-three percent to fifty percent of the cost for services in nursing facilities. The committee felt that these actions continue to support an individual's freedom to choose from a spectrum of services appropriate to their needs. The increase in the capped percentages of payments is viewed as a significant incremental increase. In addition, the committee agreed that there should be a continuing review of long-term-care services. The already existing Statutory Oversight Committee on Elderly and Adult Services has the authority and willingness to conduct the review. In consideration of the foregoing, the committee voted Inexpedient to Legislate and understood that additional legislation may be generated by the Oversight Committee in the future to provide additional incremental cost changes, as appropriate. Vote 16-0.

#### **SB 78-FN**, establishing the New Hampshire health care information council **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: The committee felt that the health care resources information gathering proposed by this bill was important and should be implemented. Such information would be very valuable to those serving on the Certificate of Need Board. In addition, it was felt that consumers should have accurate information to help them make informed decisions as to whom they choose to be their health care providers and information as to the quality of care provided by health care facilities. However, when the committee reviewed the final action taken on bills concerning the Certificate of Review process and data gathering and analysis, it was reported by the prime sponsor that this bill had been attached to another bill in the Senate, and it passed. Therefore, any further action on this bill would be redundant. Vote 16-0.

#### **HB 74**, establishing a task force on the siting of new district courts. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: This bill would have established a task force to develop standard, objective criteria for determining the future siting of new district courts, and propose model

legislation. The committee learned that such a task force had been created in 1991 by HB 193, and that it had issued a final report on February 14, 1992. A review of that report indicated that its findings and recommendations remained valid and useful, and that no useful purpose would be served by a new study. Vote 12-0.

**HB 145**, relative to the Claremont and Newport district courts. **INEXPEDIENT TO LEGISLATE**  
Rep. Gregory M. Sorg for Judiciary: This bill would have separated the present Claremont-Newport judicial district into separate Claremont and Newport districts, and specify the towns to be included in each district. While the committee favors this separation in principle, the lack of an adequate court facility in Claremont at this time made it seem undesirable to consider passage of the bill before Claremont first upgrades their facility. Since other considerations would involve the State with capital improvements and bonding, it was concluded that this type of proposal should have broader legislative review. Senator Odell, one of its prime sponsors, has agreed to introduce it as a new bill in the Senate. Vote 13-2.

**HB 217**, relative to emergency powers of the supreme court. **INEXPEDIENT TO LEGISLATE**  
Rep. Tony F. Soltani for Judiciary: This bill granted certain authority to the Supreme Court in the event of a gubernatorial state of emergency declared pursuant to RSA 4:45. The scope of the authority extended to statutory areas reserved for the Legislature. Also, the duration of the authority was undefined. Finally, this bill did not take notice of the Legislature's independent and concurrent authority to declare an emergency. The court, under its own rules, has the ability to suspend deadlines imposed under court rules for good cause. Vote 12-6.

**HB 325**, relative to the Henniker-Hillsborough district court and the New London district court. **INEXPEDIENT TO LEGISLATE**  
Rep. Gregory M. Sorg for Judiciary: This bill would have amended RSA 502-A by transferring the Town of Bradford from the Henniker-Hillsborough judicial district to the New London district. The bill was filed by a member on behalf and at the request of a constituent. The member expressed no opinion on the bill, and no one testified in its favor, while the Bradford police chief testified against it on the ground that it would subject his department to more inconvenience. Vote 16-0.

**HB 328**, relative to the allocation of costs in court actions. **INEXPEDIENT TO LEGISLATE**  
Rep. Harry M. Haytayan for Judiciary: The committee found that existing law provides protection against frivolous lawsuits and the proposed bill would lead to unintended consequences which could lead to abuse against those with limited resources. Vote 19-0.

**HB 422**, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Tony F. Soltani for Judiciary: This bill clarifies the method of selecting a substitute for a disqualified Supreme Court justice. In the event of such disqualification, a retired Supreme Court justice will serve. If a retired Supreme Court justice is not available, then a retired full-time Superior, District, or Probate Court justice will serve. If none is available, then a full-time Superior, District, or Probate Court justice will be selected. All selections for substitute justices will be made randomly. Vote 15-0.

#### **Amendment (2526h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Supreme Court Justices; Method for Choosing Replacement Justices for Disqualified Justices.  
Amend RSA 490:3 to read as follows:

490:3 Disqualification; Temporary Justices.

I. The provisions as to the disqualification of justices of the superior court apply to justices of the supreme court. Whenever a justice of the supreme court shall be disqualified or otherwise unable to sit in any cause or matter pending before such court, the chief or senior associate justice of the supreme court may assign another justice to sit according to the provisions of paragraph II of this section.

II. Upon the retirement, disqualification, or inability to sit of any justice of the supreme court, the chief justice or senior associate justice of the supreme court may assign a justice of the supreme court who has retired from regular active service *or, if a retired supreme court justice is unavailable, shall assign a full-time justice from the superior, district, or probate court who has*

*retired from regular active service to sit during supreme court sessions while the vacancy continues[or he may notify the chief justice or senior associate justice of the superior court of such vacancy. Upon such notification, the chief justice or senior associate justice of the superior court shall provide the supreme court for each day of sitting during a session while the vacancy shall continue with the names of 2 or more superior court justices in regular active service or who are retired and are not otherwise disqualified. The chief justice or senior associate justice of the supreme court may then assign a justice to sit temporarily on the court from among those superior court justices whose names have been provided]. The selection of a retired supreme, superior, district, or probate court justice shall be on a random basis. However if no retired supreme, superior, district, or probate court justice is available, then the selection of a replacement justice shall be made on a random basis from a pool of full-time justices of the superior, probate, and district courts. The clerk of the supreme court shall maintain a list of judges who are willing to serve as temporary supreme court judges.*

III. A justice assigned to sit temporarily on the supreme court pursuant to paragraph II of this section shall have all the authority of a supreme court justice to hear arguments, render decisions, and file opinions. No justice shall be assigned to sit on the supreme court in the determination of any cause or matter upon which ~~he~~ *the justice* has previously sat or for which ~~he~~ *such justice* is otherwise disqualified nor without ~~his~~ *such justice's* consent.

2 Effective Date. This act shall take effect January 1, 2005.

#### **HB 444, relative to summoning witnesses from another state. OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Wheeler for Judiciary: This bill will make the statute that allows a material witness who lives in another state to be subpoenaed in criminal cases, apply in juvenile justice civil cases, like juvenile delinquency, and child abuse and neglect. The committee believes that this proposal will help protect the best interest of New Hampshire children, by having witnesses available with material knowledge of abuse or juvenile delinquency available through subpoena even though they may live out of state. The amendment narrows the bill to better tailor it to its intended purpose. Vote 19-0.

#### **Amendment (1509h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to summoning witnesses from another state in certain actions involving children.

Amend the bill by replacing all after the enacting clause with the following:

1 Adjudicatory Hearing; Witnesses From Another State Summoned to Testify in This State.

Amend RSA 169-B:16, II to read as follows:

II. Following arraignment, the court shall proceed to hear the case in accordance with the due process rights afforded a minor charged with delinquency. The prosecution shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The minor shall have the right to present evidence and witnesses on behalf of the minor and to cross-examine adverse witnesses. *The provisions of RSA 613:3, I, relative to the summoning of out-of-state witnesses, shall apply to the proceedings.*

2 Adjudicatory Hearing; Witnesses From Another State Summoned to Testify in This State.

Amend RSA 169-C:18, III to read as follows:

III. The petitioner shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The petitioners shall have the right to present evidence and witnesses on their own behalf and to cross-examine adverse witnesses. The admissibility of all evidence in this hearing shall be determined by RSA 169-C:12. *The provisions of RSA 613:3, I, relative to the summoning of out-of-state witnesses, shall apply to the proceedings.*

3 Adjudicatory Hearing; Witnesses From Another State Summoned to Testify in This State.

Amend RSA 169-D:14, II to read as follows:

II. Following the initial appearance the court shall proceed to hear the case in accordance with the due process rights afforded a child alleged to be in need of services. The prosecution shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The child shall have the right to present evidence and witnesses on his behalf and to cross-examine adverse witnesses. *The provisions of RSA 613:3, I, relative to the summoning of out-of-state witnesses, shall apply to the proceedings.*

4 Effective Date. This act shall take effect January 1, 2004.

## AMENDED ANALYSIS

This bill adds certain actions relative to children to the causes of action which allow the summoning of a witness from another state.

**HB 622-FN**, excluding tax abatement sessions from nonpublic sessions and including costs for non-attorney representatives under the right-to-know law. **OUGHT TO PASS WITH AMENDMENT**

Rep. Tony F. Soltani for Judiciary: This bill amends the Right-to-Know Law in order to clarify an ambiguity affecting the local governments. Under this bill, applications for relief such as tax abatements will be debated publicly unless the application is based on inability to pay. The local officials will deliberate matters in non-public session – matters involving inability to pay or where a legal action has been filed or threatened in writing. Vote 20-0.

**Amendment (2381h)**

Amend the title of the bill by replacing it with the following:

AN ACT clarifying certain exemptions from the right-to-know law.

Amend the bill by replacing all after the enacting clause with the following:

1 Right-to-Know Law; Exemptions. Amend RSA 91-A:3, II(c)-(e) to read as follows:

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting. *This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on need, inability to pay or poverty of the applicant.*

(d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his *or her* membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled. *Any application filed for relief, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any body, board, or agency for the purposes of this subparagraph.*

2 Effective Date. This act shall take effect January 1, 2005.

## AMENDED ANALYSIS

This bill clarifies certain exemptions from the right-to-know law relating to reputation and pending claims or litigation.

**HB 656-FN**, repealing the family division pilot program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janet G. Wall for Judiciary: After extensive testimony and study, the committee agreed to support the establishment of a commission to determine whether the operations of the family division court in Grafton County, as established in 1995, fulfills the legislative purposes as determined in 1995 (Chapter 152:1). The commission shall make recommendations regarding continuation or abolishing the family division court in Grafton County and shall include in its report further recommendations for making the family division court a workable alternative in rural settings, as opposed to how these family division courts operate in urban settings. Vote 16-0.

**Amendment (2485h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study the operations of the family division court in Grafton county.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The purpose of this act is to establish a commission to determine whether the operations of the family division court in Grafton county, established by 1995, 152, fulfill the legislative purposes as stipulated in 1995, 152:1, the purpose statement of the chapter law.

2 Commission Established. There is established a commission to study the operations of the family division court in Grafton county.

### 3 Membership and Compensation.

#### I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, 2 of whom shall be members of the judiciary committee, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

(c) Two district court judges, one who regularly sits on the family division court and one who does not regularly sit on the family division court, appointed by the administrative judge of the district courts.

(d) Two chiefs of police from towns or cities within Grafton county, appointed by the Grafton County Police Chiefs Association.

(e) One family court case manager, appointed by the supervisory judge of the Grafton county family division court.

(f) Two attorneys with extensive experience practicing both in the Grafton county family division court and in at least one other county which does not have a family division court, one of whom shall reside in Grafton county, appointed by the President of the New Hampshire Bar Association.

(g) Two current members of the task force on family law established in 2002, 250:1, one of whom shall be appointed by the chairperson of the task force and one of whom shall be appointed by the speaker of the house.

(h) One employee of the division for children, youth and families who has experience with family courts, appointed by the commissioner of health and human services.

(i) One juvenile parole and probation officer with work experience in Grafton county, appointed by the commissioner of health and human services.

(j) Two public members, who reside in Grafton county and are knowledgeable of family court operations.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall study the operations of the family division court in Grafton county to determine if the family division court in Grafton county is meeting the purposes for which it was originally established. The commission shall make a recommendation for continuing or abolishing the family division court in Grafton county and, if the recommendation is for continuing the family division court, shall include in its report further recommendations on making the family division court a workable alternative to regular court in a rural setting.

5 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

6 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

7 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This act establishes a commission to study the operations of the Grafton county family division court.

### **HB 716-FN, repealing procedures for administration of small estates. INEXPEDIENT TO LEGISLATE**

Rep. John M. Pratt for Judiciary: Both the Probate Clerk who originally requested this legislation and the Probate Court itself informed the committee that the Court would attempt to solve the problems addressed in it through improvements in court procedures. The committee agreed that legislation was therefore not needed. Vote 17-1.

**HB 730-FN-L, relative to workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. OUGHT TO PASS WITH AMENDMENT**  
Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: This bill establishes a committee to study the feasibility and cost of providing workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. Vote 12-0.

**Amendment (2557h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study the feasibility and cost of providing workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the feasibility and cost of providing workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill establishes a committee to study the feasibility and cost of providing workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

**HB 230**, establishing a committee to study procedures for the joint legislative committee on administrative rules to introduce legislative changes. **OUGHT TO PASS WITH AMENDMENT** Rep. Nelson S. Allan for Legislative Administration: This bill establishes a "directed study" on specific issues that may significantly improve the effectiveness of the Joint Legislative Committee on Administrative Rules (JLCAR) process. During an extensive set of public hearings on this bill, many positive suggestions were brought forward that require further refinement before implementation in legislation. Ten specific areas of further study are identified. A report is due by November 2004. Several revisions to the current RSA 541-A are also presented to amend the conditional rule approval process, expedite the rule appeal process, and waive deadlines in certain cases. Vote 11-0.

**Amendment (2534h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study how to improve the processes of the joint legislative committee on administrative rules.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives, including at least one member of the legislative administration committee, one member of the executive departments and administration committee, and one member from the joint legislative committee on administrative rules.

(b) Five members of the senate, appointed by the president of the senate.



II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall solicit input on and consider:

I. The development of a process to record a clear statement of legislative intent on every bill sent out of a house or senate committee with a favorable report; such process may involve requiring a purpose clause to be included in every bill in the form of either chapter law or statute, requiring a statement of intent to be included in every bill file, requiring a statement of intent to be included in each house committee report, or requiring all house hearings and executive sessions to be recorded.

II. The development of a formal process for ensuring that the joint legislative committee on administrative rules receives input from the appropriate policy committees on proposed rules; such process may involve the establishment of a rules review subcommittee within each policy committee of the house and senate and/or participation by a policy committee member prior to the agency public comment period.

III. Adopting methods to provide for an expedited rulemaking process to adopt rule changes with minimal impact, including the adoption or revision of forms used by agencies.

IV. Expanding the membership of the joint legislative committee on administrative rules and establishing subcommittees of the committee.

V. Developing a RSA 541-A training program for members newly appointed to the joint legislative committee on administrative rules and an educational program on rules for all house members.

VI. Methods for ensuring uniformity in granting rulemaking authority and avoiding over broad rulemaking authority provisions. Such methods may involve the development of guidelines for policy committees or bill drafters to follow.

VII. Revising RSA 541-A relative to fiscal impact statement requirements.

VIII. The processes for rulemaking employed by the agencies that are exempt from the provisions of RSA 541-A, and the effectiveness of this approach towards rulemaking.

IX. Revisions to the drafting and procedure manual.

X. Revising RSA 541-A to permit the electronic filing of documents at various stages of the rulemaking process.

XI. Such other related issues as the committee deems appropriate.

4 Sources of Information. The committee may solicit information and testimony from the rules staff of the office of legislative services, the rulemaking administrators at the department of administrative services, agency rulemaking coordinators, and any other source that the committee deems appropriate.

5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings, any recommendations for proposed legislation and any specific recommendations for implementing procedures designed to improve rulemaking that do not require statutory changes. Such report shall be submitted to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

7 Administrative Procedure Act; Amending Conditional Approval Process. Amend RSA 541-A:13, V(a) to read as follows:

(a) If the committee objects to the final proposal as filed or as amended pursuant to paragraph II, it shall so inform the agency. In lieu of a preliminary objection, the committee may vote to conditionally approve the rule with an amendment, provided that the committee specifies in its conditional approval the language of the amendment to address the basis for a preliminary objection. The committee shall notify the agency in writing of its conditional approval. Within ~~[+4]~~ **30** days of the meeting, *or in the case of a board or commission, 7 days following its next regularly scheduled meeting*, the agency shall submit a written explanation to the committee in the form of a letter and an annotated text of the final proposed rule detailing how the rule has been amended in accordance with the conditional approval. The written explanation shall be signed by the individual holding rulemaking authority, or, if a body of individuals holds rulemaking authority, by a voting member of that body, provided that a quorum of the body has approved. Failure to submit

a written explanation in accordance with the conditional approval and this paragraph shall cause the conditional approval to be deemed a committee vote to make a preliminary objection on the date of the conditional approval. If the office of legislative services determines that the agency has amended the rule in accordance with the conditional approval and this paragraph, the office of legislative services shall promptly send written confirmation of compliance to the agency. The agency may then adopt the rule as amended.

8 New Section; Administrative Procedure Act; Expedited Repeal of Rules. Amend RSA 541-A by inserting after section 19 the following new section:

541-A:19-a Expedited Repeal of Rules.

I. An agency may repeal any rules using the expedited procedures of this section and without meeting the requirements of RSA 541-A:5-7 and RSA 541-A:9-14 if:

(a) The proposed repeal has been approved by the official or the group of individuals with rulemaking authority.

(b) The rule proposed for repeal encompasses at least a full rules section, as described in the drafting and procedure manual for administrative rules pursuant to RSA 541-A:8.

(c) The repeal is not being proposed for purposes of being superseded later by adoption of a new rule with a text amended from the repealed rule.

(d) The repeal of the rule pursuant to this section does not deprive a person of any right, duty, or privilege of that person which is protected by the due process provisions of the state or federal constitutions.

II. Notice of an agency's intent to repeal a rule shall include:

(a) The name and address of the agency.

(b) The statutory rulemaking authority for the rule.

(c) The rule number and title.

(d) An explanation of the reason for the proposed repeal.

(e) The name, address, electronic address, and telephone number of an individual in the agency able to answer questions about the proposed repeal and to arrange for reasonable accommodation for persons with disabilities wishing to attend the public comment hearing.

(f) The date, time, and location of the public comment hearing.

III. The notice required by paragraph II shall be:

(a) Published in the rulemaking register and in a newspaper of daily statewide circulation.

(b) Filed with the director of legislative services no later than 7 calendar days before the date of publication in the rulemaking register.

(c) Published in a newspaper of daily statewide circulation no later than the date of publication in the rulemaking register.

IV. At the same time that the notice required by RSA 541-A:19-a, III is filed, the agency shall file the text of the rule to be repealed with the director of legislative services.

V. There shall be a public comment hearing on the proposed repeal no sooner than 7 calendar days after the date of publication of the notice in the rulemaking register. There shall be a period for the submission to the agency of written or electronic public comment ending on the 3<sup>rd</sup> calendar day after the date of the public comment hearing. Copies of the text of the rules subject to repeal shall be available at the public comment hearing.

VI. If on the basis of public comment the official or the group of individuals with rulemaking authority determines that the rule should not be repealed, the agency shall so notify the director of legislative services and the rule shall not be repealed.

VII. The proposed repeal shall be placed on the agenda of the committee for review at the first regularly scheduled or special meeting at least 5 calendar days after the close of the period for written or electronic comment described in paragraph V. The committee may approve or object to the repeal. The committee may object to the repeal if the repeal is:

(a) Beyond the authority of the agency;

(b) Contrary to the intent of the legislature; or

(c) Deemed by the committee not to meet the requirements of paragraph I.

VIII. If the committee objects to the repeal, the repeal shall not be adopted. The committee's objection shall not preclude the agency from repealing the rule by meeting the requirements of RSA 541-A:3.

IX. If the committee approves the repeal, the agency may adopt the repeal and file a statement of the repeal with the director of legislative services. The repeal shall be effective as of

12:01 a.m. on the day after filing of the statement or as of 12:01 a.m. on the date specified by the agency, or such other date and time as specified, provided that the filing occurs before such effective date and time.

9 New Paragraph; Administrative Procedure Act; Waiver by Director of Legislative Services. Amend RSA 541-A:40 by inserting after paragraph III the following new paragraph:

IV. Notwithstanding any other provision of this chapter, the director of legislative services, after consultation with the chair and vice-chair of the joint legislative committee on administrative rules, may, for good cause shown, waive any deadline contained in any provision of this chapter.

10 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

The bill:

I. Establishes a committee to study how to improve the processes of the joint legislative committee on administrative rules.

II. Amends the conditional rules approval process.

III. Establishes an expedited repeal process for administrative rules.

IV. Authorizes the director of legislative services to waive rulemaking deadlines in certain cases.

**HB 381-FN**, requiring proposed bills and rules to include an analysis of their impact on personal privacy. **INEXPEDIENT TO LEGISLATE**

Rep. George N. Katsakiores for Legislative Administration: The committee did not doubt the importance of targeting personal privacy impacts contained in pending legislation. What concerned the committee was the added administrative burden that would be placed on legislative staff. There also was concern that legislative authority could erode in the process. The committee agreed that the goal of this legislation could be achieved without legislation. A simpler solution would be to amend the manual for committee Chairmen to require them to alert their committees as to personal privacy issues and to take them into consideration while studying and acting on bills. Vote 9-1.

**HB 734-FN-A**, establishing a pilot program to open the state house on Saturdays. **INEXPEDIENT TO LEGISLATE**

Rep. David P. Currier for Legislative Administration: There was no opposition to the concept of establishing a pilot program to open the State House on Saturdays. There were concerns about security and the potential for vandalism. After considerable review, it was recommended that legislation was not needed. The Joint Committee on Facilities has the authority to open the State House on weekends. Therefore, those interested in pursuing a pilot program will petition the Joint Committee on Facilities to open the State House on specific Saturdays next summer and fall. The cost of security staff would be borne by the private sector. The prime sponsor supported the Inexpedient to Legislate motion. Vote 10-0.

**HB 85-FN-L**, requiring the exclusion of certain one-time expenditures prior to the adoption of a default budget in cities and towns that have adopted official ballot voting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for Municipal and County Government: This bill clarifies the definition of "default budget" and requires the default budget to be disclosed at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body shall demonstrate how the default budget amount was determined by showing the appropriations contained in the previous year's operating budget and the reductions and increases made on a budget form created by the Department of Revenue Administration. The governing body in SB 2 towns and school districts shall post a certified copy of the default budget form or any amended default budget form, along with the proposed operating budget and warrant. Vote 13-0.

### Amendment (2495h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

Amend the bill by replacing all after the enacting clause with the following:

1 Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX.(a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

*(b) "Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision.*

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved ~~[the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one-time expenditures contained in the operating budget.]~~ *the default budget* or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. ~~[For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision].~~

XI. The ~~[amount of the previous year's operating budget, as adjusted pursuant to paragraph X.]~~ *default budget* shall be disclosed ~~[to the voters at the first session]~~ *at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases made pursuant to paragraph IX(b) on a default budget form created by the department of revenue administration.* This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, acting on relevant new information at any time before the ballots are printed, *provided the governing body completes an amended default budget form.* The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$\_\_\_\_\_? Should this article be defeated, the ~~[operating]~~ *default* budget shall be \$\_\_\_\_\_, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

*(b) The governing body in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.*

3 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill provides for certain changes to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

**HB 161-FN-L**, relative to residency in determining entitlement to local welfare assistance. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: This bill would have required individuals in need of local welfare assistance to be a resident of the town in which they apply for assistance. This requirement is not possible to meet in all circumstances due to the transient situation of the individual. One of the consequences of refusal of assistance could result in an individual being forced to return to a domestic violence situation. The committee retained this bill and asked the commission to study problems related to the delivery of local assistance (HB 1109), to consider the change. The final commission report included a process to allow cooperation between the "home" town and "assisting" town in funding the required assistance. Since the committee approved the commission's recommendation to file a bill that addresses this delivery, changing the residency requirement was not favored. Vote 16-0.

**HB 285**, relative to establishing non-amendable articles by voter petition. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: Currently, in official ballot referendum towns or school districts, neither the governing body nor the budget committee, if one exists, has the ability to revise their recommendations if the budget appropriations are changed during the deliberative session. This bill gives them the ability to change their noted recommendation prior to printing the ballot. In addition, this bill makes the original recommendation of the budget committee the amount to be used in calculating the ten-percent limitation. Vote 15-0.

**Amendment (2530h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

Amend the bill by replacing all after the enacting clause with the following:

1 Budget Preparation. RSA 32:5, V is repealed and reenacted to read as follows:

V. When any purpose of appropriation, submitted by a governing body or by petition, appears in the warrant as part of a special warrant article:

(a) The article shall contain a notation of whether or not that appropriation is recommended by the governing body, and, if there is a budget committee, a notation of whether or not it is recommended by the budget committee;

(b) If the article is amended at the first session of the meeting in an official ballot referendum municipality, the governing body and the budget committee, if one exists, may revise its recommendation on the amended version of the special warrant article and the revised recommendation shall appear on the ballot for the second session of the meeting provided, however, that the 10 percent limitation on expenditures provided for in RSA 32:18 shall be calculated based upon the initial recommendations of the budget committee.

(c) Defects or deficiencies in these notations shall not affect the legal validity of any appropriation otherwise lawfully made; and,

(d) All appropriations made under special warrant articles shall be subject to the hearing requirements of paragraphs I and II of this section.

2 Limitations of Appropriations. Amend the introductory paragraph of RSA 32:18 to read as follows:

32:18 Limitation of Appropriations. In any municipality electing this subdivision, or any district wholly within a town electing this subdivision, the total amount appropriated at any annual meeting shall not exceed by more than 10 percent the total amount recommended by the budget committee for such meeting. *In official ballot referendum municipalities, the recommendation of the budget committee made for the first session of the meeting shall be used for determining the 10 percent limitation.* These totals shall include appropriations contained in special warrant articles. Money may be raised and appropriated for purposes included in the budget or in the warrant and not recommended by the budget committee, but not to an amount which would increase the total appropriations by more than the 10 percent allowed under this paragraph. The 10 percent increase allowable under this paragraph shall be computed on the total amount recommended by the budget committee less that part of any appropriation item which constitutes fixed charges. Fixed charges shall include appropriations for:

3 Effective Date. This act shall take effect 60 days after its passage.

## AMENDED ANALYSIS

This bill allows the budget committee or the governing body to change a recommendation of a budget article if the article has been amended.

**HB 307**, relative to municipal regulation of public highways. **INEXPEDIENT TO LEGISLATE**  
Rep. Robert W. Brundige for Municipal and County Government: This bill would have allowed municipalities to adopt bylaws and fee structures to regulate a utility's use of public highways and rights of ways which could result in more than 200 additional sets of fees for the same utility services provided throughout the state. The committee heard testimony that this additional cost would be passed through to the consumer. The committee determined it would be better to have a comprehensive process formulated at the state level to deal with any additional costs borne by the municipalities that only users of a utility should pay, instead of having the cost added to the property tax. Vote 16-0.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: The original intent of this bill was to create a process for the Department of Revenue Administration to measure local assessing practices, instead of requiring a certification cycle for municipalities which was accomplished by the passage of SB 54 last year. The committee retained the rest of the bill and completed the additional parts of the bill – some being housekeeping in nature. The bill removes the financial responsibility of the appraisers while at the same time it changes the penalty for certification non-compliance of the assessors from a violation to a Class B misdemeanor. The bill clarifies two minor issues dealing with tax maps. The last issue the bill addresses is returning rulemaking authority to the Assessing Standards Board in order to regulate certification, continuing education, and revocation and suspension standards for assessing officials that was removed by SB 54 as an oversight. Vote 15-0.

## Amendment (2532h)

Amend the bill by replacing all after the enacting clause with the following:

1 Commissioner of Revenue Administration; Municipal Assessments; Reference Corrected. Amend RSA 21-J:3, XXVI to read as follows:

XXVI. Review and report each municipality's assessments once within every 5 years pursuant to RSA 21-J:11-a[~~-H~~].

2 Revenue Administration; Rulemaking; Appraisers. Amend RSA 21-J:13, VI(a) and (b) to read as follows:

(a) Evidence of the ~~[financial responsibility and]~~ professional capability of personnel to be employed under contract under RSA 21-J:11; and

(b) The content of the contract to be approved under RSA 21-J:11, *as provided in RSA 71-B*.

3 Certification of Assessors; Reference Corrected. Amend RSA 21-J:14-f, II to read as follows:

II. No person, except boards of assessors and selectmen making appraisals pursuant to RSA 75:1, shall make appraisals of a municipality for tax assessment purposes without first obtaining the certification required by this section. Certification is non-assignable and cannot be transferred. Any person who willfully fails to obtain certification as provided in this section shall be subject to the penalties imposed under RSA ~~[21-J:39]~~ **21-J:39, IV**.

4 Certified Appraisers; Criminal Penalties. Amend RSA 21-J:39, IV(c) to read as follows:

(c) Any person who violates subparagraph (a) or (b) shall be guilty of ~~[violation]~~ **class B misdemeanor**.

5 Tax Maps; Scale; Updating. Amend RSA 31:95-a, II-IV read as follows:

II.(a) The scale on a tax map shall be meaningful and adequately represent the land contained on the map, taking into consideration the urban or rural character of the land. The scale shall be sufficient to allow the naming and numbering of, and the placement of dimensions within, *if possible*, the parcel represented in the individual plat.

(b) Nothing in this paragraph shall apply to any city or town which, prior to the imposition of such scale requirements, has drawn a tax map, appropriated funds or contracted with any person or firm to prepare a tax map or expended funds in the initial phase of preparing a tax map.

III. Each parcel shall be identified by a map and parcel number and shall be indexed alphabetically by owner's name and numerically by parcel number.

IV. Tax maps shall be [~~continually~~] updated *at least annually* to indicate ownership and parcel size changes.

6 Board of Tax and Land Appeals; Petitions for Reassessment. Amend RSA 71-B:5, V to read as follows:

V. To hear and determine petitions filed by the commissioner of revenue administration pursuant to RSA [~~21-J:11-a, H(b)~~] *21-J:3, XXV*. The board shall give such petitions priority for scheduling hearings and for final rulings. In addition to the [~~standards utilized~~] *review* by the commissioner of revenue administration in the [~~certification of assessments~~] *assessment report* pursuant to RSA 21-J:11-a, the board shall consider the criteria in [a] RSA 71-B:16-a. The board's decision on such petitions shall be final, subject to appeal to the supreme court. Any appeal shall be filed with the clerk of the supreme court within 20 days after the date the decision is issued. The supreme court shall give any appeal it hears under this section priority in the court calendar.

7 New Paragraph; Rulemaking by Assessing Standards Board. Amend RSA 21-J:14-b by inserting after paragraph I the following new paragraph:

I-a. The assessing standards board shall adopt rules, pursuant to RSA 541-A, relative to the establishment of certification, continuing education, and revocation and suspension standards for assessing officials. The department of revenue administration shall be responsible for the enforcement of those standards.

8 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill changes the monitoring and approval of appraisers of taxable property by the commissioner of revenue administration and the assessing standards board.

The bill also allows towns and cities to change the scale and updating of tax maps.

**HB 474**, relative to the appointment of alternates to sit at meetings of the planning and zoning boards and the rules of order used by local land use boards. **INEXPEDIENT TO LEGISLATE** Rep. Nancy K. Johnson for Municipal and County Government: This bill would require a chairman of a land use board to assign alternates to sit according to seniority and to adopt a set of rules of order every year for their proceedings. The committee felt that this would be cumbersome, unnecessary and determined to leave these matters to the local land use boards. Vote 16-0.

**HB 488**, relative to leaf and yard waste. **INEXPEDIENT TO LEGISLATE** Rep. Jessie L. Osborne for Municipal and County Government: RSA 149-M:27 prohibits the disposal of leaf or yard waste in a solid waste landfill or incinerator. The original bill repealed the exemption given to those municipalities formed as solid waste management districts pursuant to an intergovernmental agreement in RSA 53-A or as a solid waste district pursuant to RSA 53-B. This would have yielded more landfill space because the solid waste tonnage would be reduced. Losing this exemption would have impacted the City of Concord. The City Council instituted fall and spring yard waste pickup this year, and is planning a regular recycling program. Since Concord is progressing toward full leaf, yard waste and recycling pickup, the committee determined that this bill may have discouraged that program. Vote 16-0.

**HB 501**, ratifying certain actions of the Rye conservation commission. **INEXPEDIENT TO LEGISLATE**

Rep. Peter B. Schmidt for Municipal and County Government: This bill sought to ratify certain property acquisitions by the Rye Conservation Commission. Inasmuch as the issue has been resolved within and by the Town of Rye, the matter is moot. The committee, therefore, voted the bill Inexpedient to Legislate, with the approval of the sponsor. Vote 15-0.

**HB 618-FN-A**, establishing a property tax cap for persons over 65 years of age. **OUGHT TO PASS WITH AMENDMENT**

Rep. Laurie J. Boyce for Municipal and County Government: This bill was retained to examine the idea of a property tax cap for the elderly. However, the cap that was proposed worked in a reverse way – the more income received, the more relief given. The bill was amended to address two technicalities in the law: (1) where an elderly individual who placed his or her property in trust is not considered the owner of the property, and therefore could not apply for the elderly exemption on the property to which he or she was otherwise entitled, and (2) reducing the five-year residency

requirement for disabled persons. This bill authorizes/recognizes the elderly individuals as "owner" for life and reinstates the five-year residency requirement for disabled persons, which was inadvertently deleted last session. Vote 13-0.

### Amendment (2533h)

Amend the title of the bill by replacing it with the following:

AN ACT making technical corrections to certain local property tax laws.

Amend the bill by replacing all after the enacting clause with the following:

1 Elderly Exemption References Changed; Definitions. Amend RSA 72:29, VI to read as follows:

VI. For purposes of RSA 72:28, 29-a, 30, 31, 32, 33, 35, 36-a, 37, 37-a, 37-b, 38-a, ~~[39, 43-b, 43-f, 43-h]~~ 39-a, 62, 66, and 70, the ownership of real estate, as expressed by such words as "owner", "owned" or "own", shall include those who have equitable title or the beneficial interest for life in the subject property.

2 New Subparagraph; Exemption for Disabled; Residency Requirement. Amend RSA 72:37-b, III by inserting after subparagraph (b) the following new subparagraph:

(c) Has been a New Hampshire resident for at least 5 years.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill makes technical corrections to certain local property tax laws allowing for exemptions.

**HB 645-FN-A-L**, establishing a pilot program for partial tax abatements on new construction of private schools. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: The bill, as first introduced, dealt with the concept of a pilot program for property tax abatement for private institutions that had plans for new construction of dormitories, dining rooms and kitchens, which are presently taxed under current law. The focus of the original bill was to reimburse through the abatement process property taxes paid by the private institutions to the towns and cities. After much discussion, the focus of the bill changed whereby a special fund would be established known as the Property Tax Reimbursement and Educational Scholarship Fund. The Fund would consist of such monies received and deposited pursuant to RSA 471-C:31, III. The Fund would be managed by the State Treasurer and would be continually appropriated to the Postsecondary Education Commission for the purpose of this subdivision. The source of funds would be from abandoned property delivered from out-of-state holders and the income earned from the working capital fund. Funds would be deposited in the Property Tax Reimbursement and Educational Scholarship Fund established in RSA 188-D:44. Any private educational institution that pays property taxes on the value of the dormitories, dining rooms, and kitchens pursuant to RSA 72:23, IV, and which has New Hampshire residents comprising more than ten percent of its boarding students, may apply for and, within the available funds, receive a reimbursement of such property taxes paid for the purpose of funding educational scholarships at the institution, as determined by rules of the Postsecondary Education Commission adopted under RSA 188-D:8-a, IV. The effective date is in the year 2005 which will require this policy to go through the budget process for the next biennium. Vote 10-5.

### Amendment (2511h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the reimbursement of certain property taxes paid by qualifying private education institutions for the purpose of educational scholarship grants.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Property Tax Exemption; School Dormitories, Dining Rooms, Kitchens.

Amend RSA 72:23 by inserting after paragraph IV the following new paragraph:

IV-a. To the extent property taxes are due and paid on the value of the dormitories, dining rooms, and kitchens of schools, seminaries of learning, colleges, academies and universities pursuant to paragraph IV, the schools, seminaries of learning, colleges, academies, and universities which qualify as provided in RSA 188-D:43 shall be eligible for reimbursement of a portion of the property tax paid.

2 New Paragraph; Postsecondary Education Commission; Rulemaking. Amend RSA 188-D:8-a by inserting after paragraph III the following new paragraph:



IV. The procedure for application, method of disbursement, and administration of funds in the property tax reimbursement and educational scholarship fund under RSA 188-D:43.

3 New Subdivision; Property Tax Reimbursement and Educational Scholarship Fund. Amend RSA 188-D by inserting after section 42 the following new subdivision:

Property Tax Reimbursement and Educational Scholarship Fund

188-D:43 Property Tax Reimbursement and Educational Scholarships. The postsecondary education commission shall administer a program for the granting of educational scholarship funds in the form of property tax reimbursement to qualifying private, secondary and postsecondary, educational institutions in this state as follows:

I. A private educational institution that pays property taxes on the value of the dormitories, dining rooms, and kitchens pursuant to RSA 72:23, IV, and which has New Hampshire residents comprising more than 10 percent of its boarding students, may apply for and, within the available funds, receive a reimbursement of such property taxes paid for the purpose of funding educational scholarships at the institution, as determined by rules of the postsecondary education commission adopted under RSA 188-D:8-a, IV.

II. Any property tax reimbursement granted under this section shall be for the purpose of providing educational scholarships at the educational institution.

III. The grant amount shall be limited to the amount of educational scholarship funds provided to New Hampshire students by the educational institution.

IV. Grants from the available funds under RSA 188-D:44 shall be awarded in proportion to the amount of reimbursement requested in applications of all qualifying educational institutions.

188-D:44 Fund Established. There is hereby established a special fund to be known as the property tax reimbursement and educational scholarship fund. The fund shall consist of such moneys received and deposited pursuant to RSA 471-C:31, III for the purposes of this subdivision. The fund shall be managed by the state treasurer and shall be continually appropriated to the postsecondary education commission for the purposes of this subdivision.

4 Custody and Escheat of Unclaimed and Abandoned Property; Certain Income Appropriated to Educational Scholarship Fund. Amend RSA 471-C:31, III to read as follows:

III. Property delivered from out-of-state holders *and the income earned from the working capital fund* shall ~~[escheat to the general fund]~~ *be deposited in the property tax reimbursement and educational scholarship fund established in RSA 188-D:44.*

5 New Subparagraph; State Accounts; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (222) the following new subparagraph:

(223) Moneys received under RSA 471-C:31, III, which shall be deposited in the property tax reimbursement and educational scholarship fund established in RSA 188-D:44.

6 Effective Date. This act shall take effect July 1, 2005.

#### AMENDED ANALYSIS

This bill establishes a program to be administered by the postsecondary education commission for the reimbursement of certain property taxes paid by qualifying private education institutions for the purpose of educational scholarship grants.

Referred to Ways and Means.

#### **HB 681-FN-L, relative to the allocation of a municipality's share of county taxes. REFER FOR INTERIM STUDY**

Rep. Eric G. Stohl for Municipal and County Government: The method used currently to determine a municipality's share of the county taxes is simply to apportion the amount according to the equalized value of each town or city. This bill suggests the possibility of determining the municipality's share using different methods, such as a possible percentage of the county's population plus a percentage of use of services in addition to a percentage of equalized value. The committee worked on this bill extensively and then established a subcommittee to further look into the issue. The subcommittee learned that the New Hampshire Association of Counties had established a tax equity commission to examine this very same issue and was serious enough about it that they raised \$10,000 to fund their study. The issue of donor towns weighs in when it comes to municipalities and how much county tax they pay compared to the amount of county services they receive. The committee feels there is a great deal of work it needs to do before establishing a more equitable formula, and an interim study will accomplish that goal. Vote 16-0.

# **HB 713-FN, relative to the penalty for violating a zoning ordinance. OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: The purpose of this bill is to strengthen and clarify the statutes in regard to zoning ordinances. Municipalities experience difficulty in enforcing certain zoning ordinances because the penalty is not enough of a deterrent to ensure compliance. HB 713 doubles the daily fine for a second offense at the same location, from \$275 to \$550. It also clarifies the statute which states that a person who violates an ordinance is "guilty of a misdemeanor" and "shall be subject to a civil penalty". Some judges were interpreting the present law as "or". Also, the word "may" is changed to "shall" to mandate that municipalities will be able to collect attorneys' fees in pursuing ordinance cases. The district courts were consulted and approved of these changes. An additional part of HB 713 concerns governmental land use. This would change the hearing process only slightly to require governmental entities to hold public hearings before change in use or new use. Also, it would require the planning board to submit comments in writing on the project within thirty days after the hearing. The change would eliminate problems arising from projects going forth without productive input from concerned citizens. An additional section of HB 713 deletes a statute requiring municipalities to compose an annual list of all residential properties that are located in commercial zones, and register this list with the Registrar of Deeds. This list will be kept locally without the added expense of recording, which the committee determined to serve no purpose. The last section of HB 713 is a housekeeping measure on "motion for rehearing" notices. A person may apply for a rehearing on a local land board within thirty days of a decision. The change merely states that abutters will be notified of the rehearing as they are for the original hearing. Vote 15-0.

## **Amendment (2541h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

Amend the bill by replacing all after the enacting clause with the following:

I Fines and Penalties; Second Offense. Amend RSA 676:17, I and II to read as follows:

I. Any person who violates any of the provisions of this title, or any local ordinance, code, or regulation adopted under this title, or any provision or specification of any application, plat, or plan approved by, or any requirement or condition of a permit or decision issued by, any local administrator or land use board acting under the authority of this title[;

(a)] shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person[;]; **and**

(b)] shall be subject to a civil penalty not to exceed \$275 *for the first offense and \$550 for subsequent offenses* for each day that such violation is found to continue after the conviction date or after the date on which the violator receives written notice from the municipality that the violator is in violation, whichever is earlier.

II. In any legal action brought by a municipality to enforce, by way of injunctive relief as provided by RSA 676:15 or otherwise, any local ordinance, code or regulation adopted under this title, or to enforce any planning board, zoning board of adjustment or building code board of appeals decision made pursuant to this title, or to seek the payment of any fine levied under paragraph I, the municipality [may] **shall** recover its costs and reasonable attorney's fees actually expended in pursuing the legal action if it is found to be a prevailing party in the action. For the purposes of this paragraph, recoverable costs shall include all out-of-pocket expenses actually incurred, including but not limited to, inspection fees, expert fees and investigatory expenses.

2 Governmental Land Uses; Local Governing Body or Planning Board Hearing and Comments. Amend RSA 674:54, II to read as follows:

II. The state, university system, county, town, city, school district, or village district shall give written notification to the governing body and planning board, if such exists, of a municipality of any proposed governmental use of property within its jurisdiction, which constitutes a [substantial] change in use or a [substantial] new use. Written notification shall contain plans, specifications, explanations of proposed changes [available at the time], a statement of the governmental nature of the use as set forth in paragraph I, and a proposed construction schedule. Such notification shall be provided at least 60 days prior to the beginning of construction. Either the governing

body or planning board of the municipality ~~[may]~~ **shall** conduct a public hearing relative to the proposed governmental use. Any such hearing shall be held within 30 days after receipt of notice by the governing body or planning board. A representative of the governmental entity which provided notice shall be available to present the plans, specifications, and construction schedule, and to provide explanations. The governing body or planning board ~~[may]~~ **shall** issue nonbinding written comments relative to conformity or nonconformity of the proposal ~~[with]~~ **to** normally applicable land use regulations to the sponsor of the governmental use within 30 days after the hearing.

3 Governmental Land Use; Local Land Use Regulations. Amend RSA 674:54, II-a to read as follows:

II-a. Any use, construction, or development of land occurring on governmentally owned or occupied land, but which is not a governmental use as defined in paragraph I, shall be fully subject to **all** local land use regulations.

4 Motion for Rehearing; Notice Required. Amend RSA 677:2 to read as follows:

677:2 Motion for Rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions. Within 30 days after any order or decision of the zoning board of adjustment, or any decision of the local legislative body or a board of appeals in regard to its zoning, the selectmen, any party to the action or proceedings, or any person directly affected thereby may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion for rehearing the ground therefor; and the board of adjustment, a board of appeals, or the local legislative body, may grant such rehearing if in its opinion good reason therefor is stated in the motion. This 30-day time period shall be counted in calendar days beginning with the date upon which the board voted to approve or disapprove the application; provided however, that if the moving party shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 144 hours of the vote pursuant to RSA 676:3, II, the person applying for the rehearing shall have the right to amend the motion for rehearing, including the grounds therefor, within 30 days after the date on which the written decision was actually filed. If the decision complained against is that made by a town meeting, the application for rehearing shall be made to the board of selectmen, and, upon receipt of such application, the board of selectmen shall hold a rehearing within 30 days after receipt of the petition. Following the rehearing, if in the judgment of the selectmen the protest warrants action, the selectmen shall call a special town meeting. ***Notice of any rehearing shall be provided in accordance with RSA 676:7.***

5 Repeal. RSA 75:11, V, requiring assessing officials to file with the register of deeds a list of residences located in an industrial or commercial zone which are eligible for special appraisal, is repealed.

6 Effective Date.

I. Sections 1 and 4 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

## AMENDED ANALYSIS

This bill:

I. Establishes a higher civil penalty for second and subsequent violations of a zoning ordinance and provides that a prevailing municipality shall recover the costs and attorney's fees it incurred in pursuing the violation.

II. Requires the planning board or the governing body of a municipality to hold a public hearing on any proposed governmental land use and requires the body to issue nonbinding written comments relative to the conformity or nonconformity of the proposal to normally applicable land use regulations.

III. Makes nongovernmental use, construction, or development of governmentally owned or occupied land, subject to all local land use regulations.

IV. Repeals the provision of the law which requires assessing officials to file with the register of deeds a list of residences located in an industrial or commercial zone which are eligible for special appraisal.

V. Requires that when a zoning order or decision is granted a rehearing, abutters shall be notified in the same manner as for the original hearing.

**HB 756-L**, promoting parental choice in education and providing for an abatement from the education taxes for parents of children not enrolled in the public school system. **INEXPEDIENT TO LEGISLATE**

Rep. Kenneth H. Gould for Municipal and County Government: This bill calls for a \$300 abatement for resident taxpayers to use to send their children to private schools. Although the rights of parents to choose an education other than that provided by their town is respected, that choice should not adversely impact the funding necessary to operate our public schools. This bill raises more inequities regarding the treatment of taxpayers who send their children to private schools, and taxpayers who have no children. Diverting funds from our public schools erodes the principle that public school education is a community's obligation. We feel it is not appropriate to further burden taxpayers by this abatement, which comes from the municipal – not the school district – budget. Vote 15-1.

**HB 761**, enabling towns to adopt subdivision regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. **OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: This bill enables the local planning board to allow density rights to be transferred along with development rights; to require, when supported by the master plan, an innovative land use control to be used by an applicant; to require preliminary review in their subdivision and site plan regulations; and negate the ability of an applicant to forego or engage in the pre-application process. The committee feels that these changes will enhance the communication between the applicant and the land use board. Vote 14-0.

**Amendment (0293h)**

Amend the title of the bill by replacing it with the following:

AN ACT enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

Amend the bill by replacing all after the enacting clause with the following:

1 Innovative Land Use Controls; Transfer of Development Rights; Density Added. Amend RSA 674:21, I(d) to read as follows:

(d) Transfer of *density and* development rights.

2 Innovative Land Use Controls; Use When Supported by Master Plan. Amend RSA 674:21, II to read as follows:

II. An innovative land use control adopted under RSA 674:16 *may be required when supported by the master plan and* shall contain within it the standards which shall guide the person or board which administers the ordinance. An innovative land use control ordinance may provide for administration, including the granting of conditional or special use permits, by the planning board, board of selectmen, zoning board of adjustment, or such other person or board as the ordinance may designate. If the administration of the innovative provisions of the ordinance is not vested in the planning board, any proposal submitted under this section shall be reviewed by the planning board prior to final consideration by the administrator. In such a case, the planning board shall set forth its comments on the proposal in writing and the administrator shall, to the extent that the planning board's comments are not directly incorporated into its decision, set forth its findings and decisions on the planning board's comments.

3 Power to Regulate Subdivisions; Preliminary Review Added. Amend RSA 674:35, I to read as follows:

I. A municipality may by ordinance or resolution authorize the planning board *to require preliminary review of subdivisions, and* to approve or disapprove, in its discretion, plats, and to approve or disapprove plans showing the extent to which and the manner in which streets within subdivisions shall be graded and improved and to which streets water, sewer, and other utility mains, piping, connections or other facilities within subdivisions shall be installed.

4 New Subparagraph; Innovative Land Use Controls Required. Amend RSA 674:36, II by inserting after subparagraph (I) the following new subparagraph:

(m) Require innovative land use controls on lands when supported by the master plan.

5 New Subparagraph; Site Plan Review Regulations; Requirement for Innovative Land Use Controls Permitted. Amend RSA 674:44, II by inserting after subparagraph (h) the following new subparagraph:

(i) Require innovative land use controls on lands when supported by the master plan.

6 Board's Procedures on Plats; Election to Forego Preapplication Review Removed. Amend RSA 676:4, II(c) to read as follows:

(c) ~~[The applicant may elect to forego or engage in preapplication review or either phase thereof as provided in subparagraphs (a) and (b).]~~ Preapplication review shall be separate and apart from formal consideration under paragraph I, and the time limits for acting under subparagraph I(c) shall not apply until formal application is submitted under subparagraph I(b).

7 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill:

I. Adds density rights to innovative land use controls.

II. Enables towns to require innovative land use controls on certain lands, when supported by the master plan.

III. Gives planning boards the power to require preliminary subdivision review.

IV. Removes an applicant's option to forego a preapplication review when such review is required by subdivision regulations.

### **SB 176, relative to standards for plats recorded in the registry of deeds. OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: The Registrar of Deeds Association wanted to set uniform standards for "plat(s)" that are recorded. The original statute stated that a plat of a subdivision or a plat showing existing property lines had to be prepared by a licensed or registered land surveyor. There was no uniform definition of plat and the Registrars of Deeds are running out of space. Many large plats were being recorded which appeared to have no specific use. This bill satisfied the requirements expressed by the Registrars of Deeds by setting up the uniform standards for recording of plats. The standards for plats will be displayed in a like manner as the standards for the recording of deeds pursuant to RSA 478:4-a. Vote 16-0.

### **Amendment (2393h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Registers of Deeds; Recording of Plats. Amend RSA 478:1-a to read as follows:

478:1-a Recording of Plats.

*I. No register of deeds shall file or record a plat of a subdivision, or a plat prepared for the purpose of showing existing property lines, if such plat has not been prepared and certified by a licensed land surveyor, since July 1, 1981, or by a registered land surveyor between January 1, 1970 and June 30, 1981, and any such filing or recording shall be void. For the purposes of this section the definition of the word "subdivision" shall be that contained in RSA 672:14. A "plat" for the purpose of this section shall be a map of a specific land area whose boundaries are defined by metes and bounds. A plat may show:*

*(a) Newly created parcels, streets, alleys, and easements as in a subdivision; or*

*(b) A lot-line-adjustment or site plan depicting existing parcels defined by legal descriptions contained in deeds, grants, or other legal documents.*

*II. Each register of deeds shall establish a policy for providing adequate space, on the plat, for recording the registry plan number and recording information.*

*III. The register of deeds shall refuse for recording any map that does not meet the definition of a plat under paragraph I and any plat that does not contain the information or meet the specifications required by this section. Construction plans, construction details, and maps that do not define the limits or extent of legal rights or interest in land shall not be recorded.*

*IV. All plats shall be drawn with the following sizes: 8.5" x 11," 11" x 17," 17" x 22," 22" x 34," or such specifications and sizes as may be required by the register of deeds. The material composition of the plats shall be suitable for electronic scanning and archiving by the register of deeds.*

*V. All plats shall have a minimum of 1/2 inch margins on all sides.*

*VI. All text and dimensions shall be legible for reproduction, and the text sizes shall be no smaller than .08 of an inch for mechanical drafting and 1/8 inch for hand drafting.*

*VII. All certifications, seals, and approval blocks shall have original dates and signatures in a legible, permanent black ink.*

*VIII. All title blocks shall be located in the lower right hand corner, when possible, and shall indicate the following:*

*(a) Type of survey, such as a boundary survey, subdivision, American Land Title Association (ALTA) survey, or lot line adjustment.*

*(b) Owner of record.*

*(c) Title of plat or development.*

*(d) Tax map number.*

*(e) Name of the town in which the parcel is located.*

*(f) Plat and revision dates.*

*IX. All plats shall have a scale both as a written and graphic representation.*

*X. All plats shall have a north arrow with reference to magnetic grid or astronomic north, as applicable. The north arrow shall be labeled with its reference direction.*

*XI. Shading over any text shall not be permitted on any plat. Cross hatching or other hatching at a scale large enough not to interfere with text legibility, before and after reproduction, may be permitted.*

*XII. No lines, whether hatching, boundary lines, or topographic contours shall obstruct or interfere with the legibility, either before or after reproduction, of any bearings, dimensions, or text.*

*XIII. The minimum line widths on plats shall not be smaller than .01 inches.*

2 Repeal. RSA 478:13-a, relative to recording of plans, is repealed.

3 Effective Date. This act shall take effect January 1, 2005.

#### **HB 567-FN-L**, relative to telecommunications infrastructure in state-owned rights-of-way. **REFER FOR INTERIM STUDY**

Rep. Leon S. Kenison for Public Works and Highways: The committee voted to reconsider this bill based on information that the New Hampshire Department of Transportation and industry representatives furnished, suggesting that unintended consequences may result unless further study resolves the uncertainties revealed since the committee vote. Interim study will allow a more complete evaluation of all related interests and factors. Vote 8-6.

#### **HB 607-FN**, relative to the determination of just compensation in eminent domain proceedings. **REFER FOR INTERIM STUDY**

Rep. Kevin K. Waterhouse for Public Works and Highways: This bill would allow New Hampshire to join Florida as the only state to allow the actual replacement cost of the property taken. The committee felt recently passed legislation increasing the relocation assistance for businesses in eminent domain proceedings from \$10,000 to \$100,000 to be a step toward more equitable compensation. The committee felt that the time spent evaluating the reorganization and training of the Right-of-Way Bureau will be beneficial. Vote 11-3.

#### **HB 697-FN**, relative to the sale of motor fuel. **OUGHT TO PASS WITH AMENDMENT**

Rep. Saghir A. Tahir for Public Works and Highways: This bill updates the statutes relative to the road toll and its collection process. It also increases the penalties for violators of the report requirement and avoidance of the payment of the road toll. The committee worked on this bill during several sessions and received input from the Department of Safety and the Attorney General's Office. Vote 15-0.

#### **Amendment (2547h)**

Amend the bill by replacing sections 3-7 with the following:

3 Application for License; Licensing of Distributors. Amend RSA 260:36 to read as follows:

260:36 Application for License; Licensing of Distributors. It shall be unlawful for any person to sell or use motor fuel upon which the road toll imposed and collected under this subdivision has not been paid, unless the person is the holder of a valid license to engage in business as a distributor of motor fuels. To procure a motor fuel distributor license, an application, signed subject to prosecution for unsworn falsification and accompanied by a bond, shall be filed with the department in such form as the commissioner may prescribe. Once approved, the department shall

issue a license certificate valid only for the distributor in whose name issued. The license shall be unassignable and shall remain in full force and effect *on a fiscal year basis from July 1 through June 30 [untit]* unless cancelled, suspended, or revoked. *The license shall be renewable upon completion of an application renewal form, provided that the distributor is in good standing with the division.* The department shall furnish each distributor, monthly, a list of current licenses issued under this section.

4 Motor Fuel and Petroleum Products Transporter; License. Amend RSA 260:42, IV to read as follows:

IV. The commissioner shall issue a license certificate when the application has been accepted and approved, and all other conditions and requirements of this subdivision have been fully complied with. The license shall be valid only for the transporter in whose name it is issued. The license shall not be assignable and shall remain in full force and effect *on a fiscal year basis from July 1 through June 30 [untit]* unless cancelled, suspended, or revoked. *The license shall be renewable upon completion of an application renewal form, provided that the transporter is in good standing with the division.*

5 Motor Fuel and Petroleum Products Transporter; Penalty. Amend RSA 260:42, VI to read as follows:

VI.(a) Any person who fails, neglects, or refuses to file the monthly report required by this section shall be assessed a penalty of [~~\$50~~] **\$500**. Such penalty shall immediately accrue and shall bear interest as specified in RSA 260:40-a.

*(b) Any person who fails to report a delivery of petroleum fuel or petroleum products within the time period specified in this section shall be assessed a penalty of \$500 or \$50 per unreported delivery, whichever is greater. Such penalty shall immediately accrue and shall bear interest as specified in RSA 260:40-a.*

6 New Section; Road Tolls; Retail Dealer Inspections. Amend RSA 260 by inserting after section 42 the following new section:

260:42-a Retail Dealer Inspections.

I. Every retail dealer shall be subject to reasonable inspections during the regular business hours of the retail dealer. Inspections may consist of the review of records of motor fuel and petroleum products, including:

- (a) Purchases of product;
- (b) Opening and closing inventory readings; and
- (c) Pump meter readings.

II. Any person authorized by the department is hereby given the authority, during the usual business hours of the day, to enter any retail dealer's premises for the purpose of making an inspection or investigation as deemed necessary by the department. If the owner or occupant refuses to permit such inspection, the commissioner or the commissioner's authorized officers may apply under oath for a search warrant as provided in RSA 595-B.

7 New Section; Road Tolls; Retention of Records by Retail Dealers. Amend RSA 260 by inserting after section 43 the following new section:

260:43-a Retention of Records by Retail Dealers, and Transporters. Each retail dealer shall maintain and keep for a period of 4 years records of motor fuel and petroleum products, including purchases of product, opening and closing inventory readings, and pump meter readings.

Amend the bill by replacing all after section 9 with the following:

10 Road Tolls; Penalties. RSA 260:55 is repealed and reenacted to read as follows:

260:55 Penalties.

I.(a) The term "person," as used in this section, shall include, but not be limited to, a natural person, a corporation, a limited liability company, a partnership, a professional association, an officer or employee of a corporation, a member, officer, or employee of a partnership, or a trustee, member, or employee of a trust who as such trustee, member, or employee is under a duty either to perform or to refrain from performing the act with respect to which the violation occurs. This section shall apply to persons acting in any fiduciary capacity.

(b) The term "wilfully," as used in this section, shall have the same meaning as provided in RSA 626:2, IV.

II. With respect to any road toll, penalty, or interest imposed by this subdivision, no person shall:

- (a) Wilfully attempt in any manner to evade any tax or the payment thereof.

(b) Wilfully fail to collect, truthfully account for, and pay over any road toll, penalty, or interest which such person is required to collect, account for, and pay over to the department.

(c) Wilfully fail to make a return, report, or declaration, to keep records, or to supply any information, which such person is required to do under this subdivision or under rules adopted under authority of this subdivision, to make such return, report, or declaration, to keep such records, or to supply such information, at the time or times required by statute or rules.

(d) Make and submit to the department any return, report, statement, or other document, that is incomplete due to wilful omissions.

(e) Wilfully make and submit to the department any return, report, statement, or other document that he or she does not believe to be true and correct as to every material matter.

(f) Aid or assist in, or procure, counsel, or advise the preparation of or presentation under, or in connection with any matter arising with respect to the road tolls imposed under this subdivision, a return, affidavit, claim, or other document, which the person knows is fraudulent or false as to any material matter, whether or not such falsity or fraud is with the knowledge and consent of the person authorized or required to present such return, affidavit, claim, or document.

(g) Wilfully simulate, or falsely or fraudulently execute or sign, any bond, license, permit, or other document required by the department with respect to motor fuel laws, or by any rule adopted relative to such laws, or wilfully procure such documents to be falsely or fraudulently executed or advise, aid in, or connive at such execution.

(h) Wilfully remove, deposit, or conceal, or direct the removing, depositing, or concealing of any goods, chattels, or commodities for, or in respect to, any road toll which is or is to be imposed, or any property upon which levy is authorized by law, with intent to evade the assessment or collection of any road toll, penalty, or interest.

(i) Wilfully deliver or disclose to the department any list, return, account, statement, declaration, or other document, known by him or her to be fraudulent or to be false as to any material matter.

(j) Wilfully corrupt or by force or threat of force, including any threatening letter or communication, endeavor to obstruct or impede an officer or employee of the state acting in an official capacity under this subdivision, or in any other way corrupt or by force or threats of force, including any threatening letter or communication, obstruct or impede, or endeavor to obstruct or impede, the due administration of any tax administered by the department. The term "threats of force," as used in this subparagraph, means threats of bodily harm to the officer or employee of the department or to a member of his or her family.

(k) Wilfully accepts delivery of motor fuel upon which the road tolls have not been paid, unless such motor fuel is exempt under the law from the payment of road tolls.

III.(a) Any natural person who violates subparagraph II(a), (b), (e), (f), or (j) shall be guilty of a class B felony and shall be fined as provided in paragraph IV and subject to the penalties provided in RSA 651:2. Any other person who violates subparagraph II(a), (b), (e), (f), or (j) shall be guilty of a felony and shall be fined as provided in paragraph IV and subject to the penalties provided in RSA 651:2.

(b) Any natural person who violates subparagraph II(c), (d), (g), (h), (i), or (k) shall be guilty of a misdemeanor and shall be fined as provided in paragraph IV and subject to the penalties provided in RSA 651:2. Any other person who violates subparagraph II(c), (d), (g), (h), (i), or (k) shall be guilty of a misdemeanor and shall be fined as provided in paragraph IV and subject to the penalties provided in RSA 651:2.

IV. In addition to any penalties provided in RSA 651:2, any person convicted under this section shall be subject to a criminal penalty of at least 10 percent, but not more than 30 percent, of the outstanding road toll.

V. The motor fuel licenses issued to any distributor by the department shall be revoked upon the conviction of the distributor of any crime under this section. Such convicted distributors shall be ineligible to renew or obtain any motor fuel license issued by the department for a period of at least 5 years from the date of conviction.

11 Road Tolls; Determining Amount. Amend RSA 260:38, I to read as follows:

I. For the purpose of determining the amount of road toll imposed and to be collected under this subdivision, *the sole proprietor, president, managing partner, chief executive officer, or equivalent thereof*, of each distributor shall on or before the twentieth day of each calendar month



render a return to the department on forms prescribed and furnished by the commissioner, *and shall certify under the pains and penalties of perjury that the return is true, accurate, and complete in all material respects*. The return shall show the total number of gallons sold and used in the state during the previous calendar month together with such other information as the commissioner may require for the reasonable administration of this subdivision. Each distributor shall accompany the return with a check payable to the state treasurer for the total amount of road toll shown by such return to be due.

12 Road Tolls; Determining Amount. Amend RSA 260:38, III to read as follows:

III. Each person manufacturing alcohol, ethanol, methanol, or any other product within the state of New Hampshire for use in gasohol shall obtain a license and, on or before the twentieth day of each calendar month, *the sole proprietor, president, managing partner, chief executive officer, or equivalent thereof, of said person shall* render a return to the commissioner on forms prescribed and furnished by the commissioner, *and shall certify under the pains and penalties of perjury that the return is true, accurate, and complete in all material respects*. The return shall show the total number of gallons sold to distributors of gasohol, or to persons purchasing the product for the purpose of resale to the distributors, together with such other information as the commissioner may require for the reasonable administration of this subdivision.

13 Road Tolls; Penalty Waiver. Amend RSA 260:42, VII to read as follows:

VI. The commissioner is authorized to waive any *civil* penalty and interest when it is proved to the commissioner's satisfaction that the failure to file a monthly report on time *or to report all deliveries of petroleum fuel or petroleum products within the time period specified in this section* was not ~~[withful]~~ *wilful*.

14 Effective Date. This act shall take effect July 1, 2004.

**HB 698-FN**, relative to electronic toll collections. **OUGHT TO PASS WITH AMENDMENT**  
Rep. William E. Leber for Public Works and Highways: This bill establishes electronic toll collection systems in statute and provides video enforcement of the E-Z Pass system. The bill provides for accounting of the collection and identifying violators. It provides for administrative procedures for collection and policy for referral to the Department of Safety for enforcement, and penalties, including administrative fines and suspension. The amendment limited procedures for drawing funds from the turnpike fund with approval of the Fiscal Committee and Governor and Council. This is important to the system to make the E-Z Pass system on the turnpike efficient and safe. Vote 12-1.

#### Amendment (2475h)

Amend the bill by replacing all after the enacting clause with the following:

1 Evasion of Tolls and Charges. RSA 236:31 is repealed and reenacted to read as follows:

236:31 Evasion of Tolls and Charges.

I. For purposes of this section:

(a) "Department" means the department of transportation.

(b) "Driver" means driver as defined in RSA 259:25.

(c) "Electronic toll collection system" means a system for electronically transmitting information from a device on a motor vehicle to receiving equipment located in a toll collection facility, in order to charge a valid electronic toll account holder the appropriate toll or charge for use of the highway or bridge.

(d) "Electronic toll collection monitoring system" means a system whereby a vehicle sensor is placed in a location to work in conjunction with an electronic toll collection system to produce at least one photograph, microphotograph, videotape, recorded image, or written record of a portion of the vehicle when the vehicle is used or operated in violation of the electronic toll collection system rules. "Electronic toll collection monitoring system" shall also include any other technology that identifies a vehicle by a photographic, electronic, or other method.

(e) "License" means license as defined in RSA 259:48.

(f) "Owner" means owner as defined in RSA 259:72.

(g) "Pay" means the transfer of funds in cash or by instructions to a financial service allowing withdrawal by debit or credit to an account maintained to satisfy the obligation to pay a toll or charge established by law for use of a highway or bridge in this state.

(h) "Violation" means to fail, neglect, or refuse to pay the toll or charge for the use of a bridge, highway, or part thereof, by a motor vehicle.

II. No person shall fail, neglect, or refuse to pay the toll or charge for the use of any bridge, highway, or part thereof; or use, or attempt to use, any device or method which results in an electronic toll collection monitoring system being unable to accurately assess or collect the toll or charge due or to detect the non-payment of the toll or charge. Any person violating this section shall be subject to the provisions of this section and to an order of suspension pursuant to RSA 263:56-f.

III. The owner of a vehicle using a bridge or highway subject to a toll or charge shall be responsible for payment of the toll and charges due, plus any administrative fees the department assesses in accordance with its rules, and to an order of suspension under RSA 263:56-f, unless:

(a) The vehicle was taken without owner's consent, pursuant to RSA 262:12, or was a stolen vehicle at the time of the violation and the owner provides to the department, or its designee, upon receipt of notice of a violation of this section, a copy of a report of the unauthorized taking or theft made to a law enforcement agency; or

(b) The vehicle was leased or rented to another person, and the owner submits to the department, or its designee, a copy of the rental agreement, lease, or other contract document covering the vehicle on the date of the violation with the name and address of the renter or lessee clearly legible; at which time the renter or lessee of the vehicle on the date of the violation shall be deemed to be the owner of the vehicle for the purposes of this section, and shall be subject to the notice and order of suspension under RSA 263:56-f.

IV. Notwithstanding RSA 237:16-d, the department shall adopt rules under RSA 541-A for the implementation of a system to detect, record, verify, and administratively enforce violations of this section. The rules shall include:

(a) The criteria used to establish that a toll or charge has not been paid.

(b) A procedure to promptly resolve inadvertent violations in the accounts of electronic toll system customers otherwise in good standing.

(c) A procedure for processing all other violations of this section, which shall require the department, or its designee, to send by regular mail, or other agreed upon method, an advisory and payment request to the owner of the vehicle, within 30 days of the date of the violation. The advisory and payment request shall notify the owner of the date, time, and location of the alleged violation, give the owner the opportunity to resolve the alleged violation by payment of the toll or charge due and a reasonable administrative fee, and advise the owner that failure to pay the required toll or charge and administrative fee within 60 days of the date of the violation shall cause the department to file a report with the department of safety, division of motor vehicles, seeking an order of suspension pursuant to RSA 263:56-f.

(d) A schedule of administrative fees to be imposed upon those who violate this section. Such administrative fees shall be set from time to time in an amount sufficient to permit the department to fully recover its costs, and the costs incurred by the department of safety, to administer, maintain, and upgrade the violation enforcement system. All funds received under this section shall be deposited in the turnpike fund. The department of transportation may, with the approval of the fiscal committee of the general court and the governor and council, draw from the turnpike fund to administer the electronic toll system.

V. Any electronic toll collection monitoring equipment acquired, operated by, or used by the department, or its designee, shall be designed to make a record of the front, or rear, or both, portions of the vehicle, including any registration plates affixed to the vehicle. Such equipment shall not be designed to produce a photograph, microphotograph, videotape, or other recorded image of the face of the operator or any passenger in the motor vehicle, unless the production of such image is unavoidable because the operator or passenger is not in a passenger compartment, as on a motorcycle.

VI. The department, and any designee of the department, shall maintain the confidentiality of all information acquired in connection with the administration and enforcement of toll evasion, including but not limited to credit and account data, photographs or other images, and all personally identifying information obtained relative to owners of vehicles. Such information shall not be a public record subject to disclosure under RSA 91-A and shall be used solely for enforcement of this section.

2 New Paragraph; Owner; Electronic Toll Collection. Amend RSA 259:72 by inserting after paragraph IV the following new paragraph:

V. For the purposes of the provisions of this title relative to electronic toll collection, any person holding title to a vehicle, or having the exclusive right to the use thereof under a written rental or lease agreement, for any period of time.

3 New Section; Suspension for Evasion of Electronic Toll Collection System. Amend RSA 263 by inserting after section 56-e the following new section:

263:56-f Suspension for Evasion of Electronic Toll Collection System.

I. Upon receiving a report from the commissioner of the department of transportation or designee, that the owner of a vehicle, as defined in RSA 236:31, has violated the terms of RSA 236:31, the director shall notify the owner in writing by first class mail that the owner's driving privileges, registration, resident plates, or motor vehicle registration privileges may be suspended on the date which is 30 days from the date of notification unless the toll and any administrative fees assessed by the department of transportation are paid. The director shall also notify the owner that he or she may request an administrative hearing before the suspension takes effect. A request for a hearing shall be in writing. A request for a hearing received by the division more than 30 days from the date the notice is issued shall be denied as untimely.

II.(a) The director shall, pursuant to RSA 541-A, adopt by rule, a uniform administrative fine schedule for each separate violation that shall not exceed:

- (1) \$250 for a first offense.
- (2) \$500 for a second offense within a 12-month period.
- (3) \$1,000 for a third or subsequent offense within a 12-month period.

(b) No fine shall take effect unless approved by the commissioner. The commissioner shall have the authority to modify the amount of the fine assessed. Notwithstanding any other law to the contrary, all administrative fines collected under this section shall be deposited into the turnpike fund.

III. The director shall adopt rules under RSA 260:5 establishing a uniform administrative hearing process.

IV.(a) The scope of the hearing shall be limited to:

- (1) Whether the owner has paid all tolls and administrative fees owed to the department of transportation;
- (2) Whether the report from the department of transportation correctly identified the owner of the vehicle at the time of the incident; or
- (3) Whether the vehicle, identified as having violated the duty to pay a toll, had been reported as taken without the owner's consent, pursuant to RSA 262:12, or stolen to a law enforcement agency in a timely manner.

(b) A notice of violation may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle using the bridge or highway subject to a toll or charge. The written certification of any person employed by or under contract with the department of transportation that the notice is so based shall be admissible in any hearing held hereunder and shall create a rebuttable presumption that the owner is liable for such violation.

V. The driving privileges, resident plates, and motor vehicle registration of any vehicle, if applicable, of an owner shall be reinstated upon:

(a) Notice to the director from the department of transportation that all tolls, fees, and fines have been paid; and

(b) Payment to the director of a fee of \$100 for license or driving privilege restoration, and \$25 for each motor vehicle registration restored. Such restoration fees shall be in lieu of any other reinstatement fees. All funds received under this subparagraph shall be deposited in the highway fund.

VI. The department shall draw against the turnpike fund to administer the electronic toll collection system, up to the limits of the reinstatement fees and administrative fines deposited therein as a result of enforcement actions taken pursuant to this section. In the event that the amounts available in the turnpike fund for this purpose are insufficient to meet the actual and reasonable costs of the department as a result of administering the enforcement actions taken pursuant to this section, the department may draw from the turnpike fund to recover such insufficiency and for any new positions that may be required by the department to administer the enforcement actions of this section; provided, that any withdrawals shall first be approved by the fiscal committee of the general court and by the governor and council.

4 New Paragraph; Records and Certification; Evasion of Electronic Toll Collection. Amend RSA 260:14 by inserting after section III the following new paragraph:

III-a. Except for a person's photograph, computerized image and social security number, motor vehicle records may be made available to the department of transportation for the enforcement of

the electronic toll collection, pursuant to RSA 236:31. Any records received under to this section shall not be further transferred or otherwise made available to any non-governmental agency that is not a contracting agent of the department of transportation for the enforcement of electronic toll collection.

**5 Implementation of Electronic Toll Collection System; Applicability.** The commissioner of the department of transportation shall certify to the commissioner of the department of safety that a toll facility has in place the equipment, procedures, and trained staff required to implement the electronic toll collection and enforcement system before violations as set forth under this act may be assessed at the facility.

**6 Effective Date.** This act shall take effect upon its passage.  
Referred to Finance.

**HB 765-FN**, relative to consideration of a light rail commuter system and establishing a commission to oversee light rail progress. **INEXPEDIENT TO LEGISLATE**

Rep. Chris S. Malloy for Public Works and Highways: The committee fully acknowledges the current and future need of rail as a form of transportation, both in-state and regionally. This particular bill set up an overlapping commission and urged the Department of Transportation to consider light rail, which it has. The approved plans for the I-93 widening currently include a 90-foot right-of-way for future light rail construction. We could possibly restrict our options for future rail technology by requiring light rail only. The committee felt this bill was not the appropriate vehicle to planning and constructing a rail system. Vote 16-1.

**HB 794**, allowing the department of transportation to lease space for the provision of food service at state highway and turnpike rest stops. **INEXPEDIENT TO LEGISLATE**

Rep. Candace C. W. Bouchard for Public Works and Highways: This legislation would have allowed the Commissioner of the Department of Transportation to lease space for the provision of food service at state, interstate and turnpike rest areas. The committee appreciated the sponsors' concern for motorist convenience and safety while traveling on New Hampshire's interstate system. However, during testimony, the committee learned the following: New Hampshire interstate exits, unlike those in other states, are close together, usually within ten miles of each other. This legislation would have a negative impact on an estimated 4,000 currently established businesses located off the interstate exits providing safe, convenient services to traveling motorists. Also, this legislation conflicted with RSA 186-B:9 and the Federal Transportation Act giving priority to blind services specific to providing vending facilities on property controlled by the state. Vote 13-0.

**HB 812**, relative to state acquisition of privately-owned airports. **OUGHT TO PASS WITH AMENDMENT**

Rep. Chris S. Malloy for Public Works and Highways: The committee felt this bill would allow the State to purchase an airport with the intention of having it remain as a viable operating airport and not used for other purposes. The bill also makes the State sell the land for any purpose and to any party after five years. It is the intent of this committee to keep airports open whenever possible, purchase an airport as a last resort, and dispose of the property if continued use as an airport is not viable. Vote 14-1.

#### **Amendment (2552h)**

Amend the bill by replacing all after the enacting clause with the following:

**I Purchase or Transfer of Airports.** RSA 422:19 is repealed and reenacted to read as follows:  
422:19 Purchase or Transfer of Airports.

**I.** All registered privately owned airports open to the public within the state offered for sale by its owner after July 2, 1989, shall be offered for sale to the state of New Hampshire in the first instance. The state of New Hampshire, acting through the commissioner with the approval of governor and council and the long range capital planning and utilization committee, shall have a right to match any verifiable bona fide offer made for such airports within the limits of funds available to the director for this purpose. The state shall have 90 days from the date of notification by owner that said airport is for sale to serve notice of intent to acquire under this section and to notify the long range capital planning and utilization committee.

**II.** Airports purchased under this section shall be held and maintained as airports in the state-wide airport system and shall be offered for sale or transfer to a local municipality, county, or airport

authority. If the state is unable to sell or transfer an airport to a local municipality, county, or airport authority within 5 years, the property shall be offered for sale or lease to any party for any purpose.

III. The commissioner shall request and maintain through the budget process, bonding authority in the amount of \$5,000,000 for purchase of airports or option to purchase in accord with this chapter.

IV. The state of New Hampshire, acting through the director, with the approval of the commissioner, shall present a request for a proposed purchase under this section or a public taking under RSA 4:29, to the long range capital planning and utilization committee for its approval.

V. The long range capital planning and utilization committee shall have 30 days after receipt of the request to render its decision on an airport acquisition.

VI. After approval of an airport acquisition by the long range capital planning and utilization committee, the commissioner shall seek final approval of the airport acquisition from the governor and executive council. As part of the approval process, the executive council shall hold a public hearing, within 30 days after approval by the long range capital planning and utilization committee, or comment in the municipality where the airport facility is located and shall render a decision within 30 days after the hearing.

2 Report Required. The director of the division of aeronautics, department of transportation, and the aviation users advisory board shall study and prepare a report on the preservation of privately-owned airports, in coordination with municipalities. The director of the division of aeronautics shall submit the report, on or before November 1, 2004, to the members of the long range planning and utilization committee, the governor, and the executive council.

3 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes new requirements for state acquisition of airports in New Hampshire.

The bill also requires the director of the division of aeronautics and the aviation users advisory board to prepare a report on the preservation of privately owned airports, in coordination with municipalities.

Referred to Finance.

#### **HB 835-FN**, relative to federal highway grant anticipation bonds. **REFER FOR INTERIM STUDY**

Rep. Mark E. McConkey for Public Works and Highways: A subcommittee met to explore the merits of this bill relative to financing the widening of Interstate 93 through the use of grant anticipation bonds (GARVEE). After a lengthy discussion with the Department of Transportation and the State Treasurer, the committee agreed that this funding tool warrants refinement, and further questions need to be answered. The committee voted to commit the bill to Interim Study. Vote 13-3.

#### **SB 35**, relative to the transfer and exchange of certain state-owned land for certain land owned by the Manchester water works. **INEXPEDIENT TO LEGISLATE**

Rep. John A. Graham for Public Works and Highways: The sponsors have indicated that this bill is no longer required. It appears that the matter will be addressed through a non-legislative process. Vote 13-1.

#### **HB 152**, relative to regulation by political subdivisions of OHRV trails and exempting certain rail trails use from the state trail evaluation process. **REFER FOR INTERIM STUDY**

Rep. David M. Lawton for Resources, Recreation and Development: This bill would prohibit local municipalities from restricting public OHRV trails on private lands which have been authorized by landowner permission. This bill is not necessary at this time since a recent Superior Court decision stated that municipalities do not have the authority to regulate trail siting for public trails. The Court did, however, enumerate several restrictions that the municipality can put in place to control the operation of OHRVs on the public trails in their community. The committee recommends that this legislation be retained for interim study in case future action is needed on this controversial subject. Vote 16-0.

#### **HB 385**, requiring compliance with local ordinances in the establishment of public ATV and trail bike trails on private lands. **REFER FOR INTERIM STUDY**

Rep. David M. Lawton for Resources, Recreation and Development: This bill would change RSA 215-A:43 to allow local municipalities to require any public OHRV trails on private lands to be in compliance with local ordinances and bylaws. A recent Superior Court decision in a related case found that the local municipality, while it may not regulate trail siting, may regulate numerous aspects of OHRV operation on public trails. The committee, therefore, did not want to take any action at this time, and recommends Interim Study. Vote 16-0.

**HB 429**, relative to processing excavating and dredging permits. **INEXPEDIENT TO LEGISLATE**  
Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill covered the same subject matter as HB 810, which was effective July 1, 2003. Testimony was received that excavation and dredge permits were being dealt with well within the parameters of HB 810. Vote 14-0.

**HB 537**, establishing a 211 commission. **INEXPEDIENT TO LEGISLATE**  
Rep. John H. Thomas for Science, Technology and Energy: This bill was before the Science, Technology and Energy Committee as HB 707 in 2001. A committee of conference changed HB 707 in its entirety to form a study committee. The study committee recommended essentially the same legislation. In this session, the Committee saw the same problems as in the original bill in the 2001 Session – those being financing duplicity and a growing entity. Vote 11-0.

**HB 65**, relative to educational assistance for national guard members. **OUGHT TO PASS**  
Rep. James F. Headd for State-Federal Relations and Veterans Affairs: The purpose of this bill is to eliminate the consideration of the Montgomery GI Bill benefits in the tuition formula for tuition waiver for National Guard members. Guard members will have available to them empty seats, thereby eliminating any additional expense to the taxpayers. The committee felt to help our volunteer Guard members grow and be the best educated individuals protecting our State and country. Vote 11-1.

**HCR 17**, urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general. **OUGHT TO PASS**

Rep. Ken Hawkins for State-Federal Relations and Veterans Affairs: After hearing much testimony from a number of historians regarding Colonel Cross, the committee felt that his leadership was crucial to victory at the Battle of Gettysburg while Colonel Cross was the Commander of the 5th Regiment NH Volunteers. He was killed July 2, 1863 during the battle in the line of duty and deserves promotion to Brigadier General. Vote 11-0.

**HB 53**, relative to retail motor vehicle sales. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Sherman A. Packard for Transportation: The amendment to HB 53 is a consumer protection issue. Under existing law, any vehicle that is a rebuilt vehicle shall be marked on the title after being rebuilt. This bill adds that a registration be also marked “rebuilt vehicle”. This will allow a consumer or dealer buying any motor vehicle to immediately identify it as a rebuilt vehicle, preventing any chance of fraud. Vote 15-0.

#### **Amendment (2512h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the sale of salvage and rebuilt vehicles.

Amend the bill by replacing all after the enacting clause with the following:

1 Title and Registration; Dismantling or Destruction of Vehicle; Notice of Rebuilt Vehicle on Registration. Amend RSA 261:22 to read as follows:

261:22 Dismantling or Destruction of Vehicle.

1. Any owner who sells or in any manner disposes of a vehicle as salvage, or who scraps, dismantles or destroys a vehicle, shall immediately cause the certificate of title and any other information or supporting documents the director reasonably requires to be mailed or delivered to the department for cancellation. Should the vehicle be rebuilt, a certificate of title or registration shall not again be issued without first obtaining approval of the director, who shall cause such vehicle to be inspected for verification of the vehicle identification number and bills of sale or title for major component parts used to rebuild the vehicle. When necessary, a new vehicle identification number shall be attached to the vehicle and shall take precedence over any other number that may be engraved on or attached to the vehicle. Any new title *and registration* issued shall contain the legend “rebuilt vehicle.”

II. Any insurance firm or representative thereof who shall declare a motor vehicle other than an exempt vehicle as provided in RSA 261:3 as having been a total loss shall make application for a salvage certificate of title within 20 days of the total loss payment. Such application shall be accompanied by:

- (a) Any certificate of title;
- (b) Any other information and documents the director reasonably requires to establish ownership of the vehicle and the existence or nonexistence of security interest in it; and
- (c) The required fee of \$10.

III. The department shall file each application received and when satisfied as to its genuineness and regularity and when satisfied that the applicant is entitled to the issuance of a salvage certificate of title shall issue a salvage certificate of title of the vehicle to the owner. The salvage certificate of title shall serve as proof of ownership and shall contain a legend indicating that the vehicle has been declared a total loss. The department may adopt rules relative to the circumstances, if any, under which a salvage certificate of title should reflect any legend pertaining to recovered theft.

IV. If a vehicle upon which a salvage certificate of title has been issued by the department after the vehicle has been declared a total loss because physically or economically impractical to repair is rebuilt and restored for highway operation, the owner shall not apply for title or registration again until the vehicle has been inspected by the director or his authorized representative. The inspection of the vehicle shall include verification of the vehicle identification number and bills of sale or titles for major component parts used to rebuild the vehicle. The department shall also issue a decal bearing the legend "salvage vehicle" which the title bureau investigator shall affix to the vehicle on the rear of the left front door post. Each "salvage vehicle" decal shall include a statement indicating that removing the decal or causing the decal to be removed is a misdemeanor under RSA 261:22, V.

IV-a. Before selling to any buyer any used vehicle, the title to which is required to be marked "salvage" pursuant to this section, *or the title and the registration to which is required to be marked "rebuilt" pursuant to this section*, the seller shall disclose to the buyer in writing that the vehicle is a salvage vehicle and the reasons for such designation. Failure to comply with the provisions of this paragraph shall constitute an unfair or deceptive act or practice under RSA 358-A:2.

V. It shall be a misdemeanor for any person to remove or cause to be removed a "salvage vehicle" decal from a motor vehicle to which it has been affixed pursuant to paragraph IV. A bona fide purchaser for value of a motor vehicle which is not properly accompanied by the disclosure required by RSA 261:22, IV-a, or from which the seller has removed or caused to be removed a "salvage vehicle" decal in violation of this paragraph may rescind the purchase within 3 business days after receiving a certificate of title disclosing that the vehicle is a salvage vehicle *or receiving a certificate of title or registration disclosing that the vehicle be a rebuilt vehicle*.

VI. For purposes of this section, a total loss vehicle shall mean either an unrecovered stolen vehicle or one which has sustained damage or injury so extensive that it is physically or economically impractical to repair.

#### AMENDED ANALYSIS

This bill requires the title and registration for a rebuilt vehicle to indicate that it is a "rebuilt vehicle."

**HB 388**, permitting the reduction of the speed limit within a business or urban residence district or within the compact part of cities or towns to 15 miles per hour. **INEXPEDIENT TO LEGISLATE** Rep. Brenda L. Ferland for Transportation: This bill was permitting a reduction of speed limits within business or urban residence areas. The main part of the bill was for a situation that was happening on a city's back alley roads. That issue was taken up and put as an amendment to another bill that passed the House, therefore making this bill unnecessary. Vote 13-0.

**HB 689-FN**, relative to drivers' licenses issued to persons under the age of 21. **INEXPEDIENT TO LEGISLATE**

Rep. Sherman A. Packard for Transportation: The youth operator license issues proposed in HB 689 became law as a result of passage of HB 819. The bill was retained to look at an amendment offered during the hearing. This amendment was felt to be a bad idea by both the committee and the Department of Safety. Vote 14-0.

**SB 222-FN-A**, relative to motor vehicle fees. **INEXPEDIENT TO LEGISLATE**

Rep. Sherman A. Packard for Transportation: The subject matter in this bill was addressed in other legislation during the 2003 Session, making this bill unnecessary. Vote 14-0.

**HB 830-FN-A**, creating enterprise zones in which qualifying businesses are eligible for tax credits. **INEXPEDIENT TO LEGISLATE**

Rep. Jeffrey D. Gilbert for Ways and Means: The fall, the study committee authorized by a similar bill, SB 73, has held extensive hearings both at the State House and around the state on the subject matter of HB 830, as well as other strategies and tactics to encourage economic development. Last spring, the committee had voted to retain this bill for possible further consideration in the event that the study committee established under SB 73 recommended further action on HB 830. The SB 73 committee has advised the Ways and Means Committee that it does not recommend such further action, but rather, will shortly file its report and propose legislation on the subject matter of HB 830. Vote 18-0.

**BILLS REMOVED FROM CONSENT CALENDAR****HB 351**, requiring completion of a child impact seminar prior to filing for divorce. **INEXPEDIENT TO LEGISLATE**

Rep. Carolyn M. Gargasz for Children and Family Law: The committee strongly supports the value of the Child Impact Seminar and the importance of parents taking it very early in the divorce process to lessen the negative impact on children. The subcommittee consulted with the Task Force on Family Law, Superior Court personnel, marital masters, Child Impact Seminar providers and interested members of the public to discuss possible amendments. The Task Force on Family Law is working on divorce issues and how to make the system less adversarial. It is aware of the importance of the Child Impact Seminars. The task force will be reporting its recommendations in November 2004. The committee decision to ITL this bill is so that the task force can address Child Impact Seminars in its overall recommendations. The committee has sent a letter to the task force in strong support of Child Impact Seminars, noting the benefit accruing to early parental education in the process. Vote 15-1.

Rep. Hopper spoke against.

Rep. Gargasz spoke in favor.

Rep. Quandt requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 278 NAYS 72****YEAS 278****BELKNAP**

Allen, Janet  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

Bartlett, Gordon  
Holbrook, Robert  
Rice, Thomas

Clark, Charles  
Lawton, David  
Russell, David

Fitzgerald, James  
Nedeau, Stephen  
Thomas, John

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Olimpio, J Lisbeth

Brown, Carolyn  
Kenney, Bettie  
Patten, Betsey

Derby, Mark  
McConkey, Mark  
Philbrick, Donald

Dickinson, Howard  
Merrow, Harry  
Stevens, Stanley

**CHESHIRE**

Allen, Peter  
Espies, Peter  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy  
Tilton, Anna

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, Irene  
Royce, H Charles  
Webber, Amy

Dunn, James  
Hunt, John  
Meader, David  
Pratt, John  
Slack, Pamela  
Weed, Charles

Eaton, Daniel  
Laurent, John  
Mitchell, McKim  
Richardson, Barbara  
Smith, Edwin

**COOS**

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Richardson, Herbert

Stohl, Eric



**GRAFTON**

Alger, John	Barker, Robert	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dorsett, Andrew
Dudley, Terri	Gionet, Edmond	Hammond, Lee	Maybeck, Margie
Naro, Debra	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Sorg, Gregory		

**HILLSBOROUGH**

Allan, Nelson	Allen, Timothy	Baroody, Benjamin	Barry, J Gail
Batula, Peter	Beaton, William	Bergin, Peter	Brassard, Paul
Brundige, Robert	Bruno, Pierre	Buckley, Raymond	Cail, Kenneth
Carlson, Donald	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Christensen, D L Chris	Clayton, William	Clemons, Jane	Cote, David
Cote, Peter	Coughlin, Pamela	Craig, James	Crane, Elenore Casey
Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard	Elliott, Larry
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Gargaszy, Carolyn
Gorman, Mary	Goyette, Peter Jr	Graham, John	Haley, Robert
Hallyburton, Margaret	Hawkins, Ken	Holden, Randolph	Infantine, William
Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette	Johnson, Lionel
Katsiantonis, Thomas	Kopka, Angeline	L'Heureux, Robert	LaFlamme, Paul
Lasky, Bette	Lawrence, James	Leach, Edward	Malloy, Chris
Martin, Mary Ellen	McDonough-Wallace, Alice	McRae, Karen	Mercer, Robert
Messier, Irene	Michon, Stephen	Mooney, Maureen	Moran, Edward
Movsesian, Lori	O'Brien, Lori	Ober, Russell III	Pappas, Christopher
Pappas, Marc	Pepino, Leo	Pilote, Maurice	Price, Pamela
Reeves, Sandra	Ross, Lawrence	Scanlon, Michael	Shaw, Barbara
Slocum, Lee	Spiess, Paul	Sullivan, Francis	Sweeney, Cynthia
Tahir, Saghir	Tate, Joan	Wheeler, Robert	

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Davis, Frank	DeJoie, John
DeStefano, Stephen	Dunne, Christopher	Field, William	Foley, Albert
Fraser, Leo Jr	French, Barbara	Gile, Mary	Hager, Elizabeth
Hess, David	Jacobson, Alf	Kenison, Leon	Kennedy, Richard
Langer, Ray	Lockwood, Priscilla	MacKay, James	Marple, Richard
Maxfield, Roy	McCormick, Tom	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Reed, Dennis	Rush, Deanna
Wallner, Mary Jane			

**ROCKINGHAM**

Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet
Camm, Kevin	Carson, Sharon	Casey, Kimberley	Clark, Vivian
Coes, Betsy	Cooney, Richard	Corbin, Corey	Dalrymple, Janeen
Duffy, James	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas
Gleason, John	Gould, Kenneth	Griffin, Mary	Hamel, Albert
Headd, James	Hutchinson, Karen	Ingram, Russell	Introne, Robert
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Kelley, Jane
Langone, John	Major, Norman	Manning, John	McCann, Richard
McEachern, Paul	McMahon, Charles	Moore, Benjamin	Morris, Richard
Norelli, Terie	Noyes, Richard	O'Neil, Michael	Packard, Sherman
Pantelakos, Laura	Pitts, Jacqueline	Putnam, Ed II	Rausch, James
Robertson, Carl	Roessner, Kurt	Ruffner, Walter	Shultis, Elizabeth
Smith, Donald	Smith, Paul	Splaine, James	Stone, Joseph
Tufts, J Arthur	Vallone, Matthew	Waterhouse, Kevin	Weare, E Albert
Welch, David	Wiley, Robert	Winchell, George	Zolla, William

**STRAFFORD**

Bemis, Alan  
Campbell, W Packy  
Easson, Timothy  
Kaen, Naida  
Snyder, Clair

Berube, Roger  
Cataldo, Sam  
Heon, Richard  
Knowles, William  
Vachon, Dennis

Bickford, David  
Creteau, Irene  
Hofemann, Roland  
Rous, Emma  
Wall, Janet

Brown, Julie  
Dunlap, Patricia  
Johnson, Nancy  
Smith, Marjorie

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter  
Rodeschin, Beverly

Donovan, Thomas  
Jones, Constance

**NAYS 72****BELKNAP**

Ahern, Omer Jr

Boyce, Laurie

Laflam, Robert

Wendelboe, Fran

**CARROLL**

Mock, Henry

**CHESHIRE**

None

**COOS**

Brady, Mark  
Woodward, David

Guay, Lawrence

Poulin, Richard

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Williams, Burton

Gilman, G Michael

Giuda, Robert

Ingbretson, Paul

**HILLSBOROUGH**

Adams, Jarvis  
Bergeron, Jean-Guy  
Christiansen, Lars  
Hagan, Barbara  
Hinkle, Peyton  
McElroy, Henry Jr  
Souza, Kathleen  
Wheeler, James

Arnold, Thomas Jr  
Bouchard, David  
Gibson, John  
Hall, Charles  
Hopper, Gary  
McHugh, Claire  
Stepanek, Stephen

Artz, Lawrence  
Buhlman, David  
Gonzalez, Carlos  
Hansen, Ryan  
Kurk, Neal  
Mosher, William  
Sullivan, Peter

Balboni, Michael  
Chabot, Robert  
Greenberg, Gary  
Harrington, Paul  
Luebker, Bernard  
Schulze, Joan  
Vaillancourt, Steve

**MERRIMACK**

Leber, William

Nutter, Edward

Soltani, Tony

**ROCKINGHAM**

Allen, Mary  
Dodge, Robert  
Letourneau, Robert  
Weldy, Norman Jr

Bicknell, Elbert  
Hughes, Daniel  
McKinney, Betsy  
Weyler, Kenneth

Bishop, Franklin  
Itse, Daniel  
Quandt, Matthew

DiFruscia, Anthony  
Katsakiores, Phyllis  
Varrell, Thomas

**STRAFFORD**

Albert, Russell  
Newton, Clifford  
Spang, Judith

Callaghan, Frank  
Pelletier, Arthur  
Twombly, James

Harrington, Michael  
Schmidt, Peter  
Woods, Phyllis

Miller, Joseph  
Scott, David

**SULLIVAN**

None

and the committee report was adopted.

**HB 176**, relative to listing candidates on ballots. **OUGHT TO PASS**

Rep. Howard C. Dickinson for Election Law: This bill changes the current form of the ballot, used in recent years, so that the names of the candidates will be listed in party columns on the General Election ballot. A majority of the committee believes that this will make the ballot simpler to read and clarify a candidate's identify with a specific party. Vote 11-4.

Rep. Burling spoke against and yielded to questions.

Rep. Dickinson spoke in favor and yielded to questions.

Adopted and ordered to third reading.

**MOTION TO PRINT REMARKS**

Rep. Densmore moved that the debate on HB 176 be printed in the Permanent Journal.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of the motion to print remarks.

**YEAS 143 NAYS 207****YEAS 143****BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

Allen, Peter  
Mitchell, McKim  
Robertson, Timothy  
Weed, Charles

Dunn, James  
Parkhurst, Henry  
Slack, Pamela

Eaton, Daniel  
Pratt, Irene  
Tilton, Anna

Espieles, Peter  
Richardson, Barbara  
Webber, Amy

**COOS**

Brady, Mark  
Theberge, Robert

Mears, Edgar

Poulin, Richard

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Dudley, Terri  
Sokol, Hilda

Cooney, Mary  
Hammond, Lee  
Solomon, Peter

**HILLSBOROUGH**

Arnold, Thomas Jr  
Brassard, Paul  
Clemons, Jane  
Dokmo, Cynthia  
Gorman, Mary  
Hinkle, Peyton  
Irwin, Anne-Marie  
Lasky, Bette  
Messier, Irene  
Pappas, Marc  
Reeves, Sandra  
Sullivan, Francis  
Wheeler, James

Baroody, Benjamin  
Buckley, Raymond  
Cote, David  
Drisko, Richard  
Hagan, Barbara  
Holden, Randolph  
Jean, Claudette  
Malloy, Chris  
Michon, Stephen  
Pepino, Leo  
Schulze, Joan  
Sullivan, Peter

Beaton, William  
Carter, Jeffrey  
Cote, Peter  
Elliott, Larry  
Haley, Robert  
Hopper, Gary  
Johnson, Lionel  
Martin, Mary Ellen  
Movsesian, Lori  
Pilotte, Maurice  
Shaw, Barbara  
Sweeney, Cynthia

Bergeron, Jean-Guy  
Clayton, William  
Craig, James  
Fletcher, Richard  
Hallyburton, Margaret  
Infantine, William  
Kopka, Angeline  
McDonough-Wallace, Alice  
Pappas, Christopher  
Price, Pamela  
Souza, Kathleen  
Tahir, Saghir

**MERRIMACK**

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Osborne, Jessie  
Rush, Deanna

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Owen, Derek  
Wallner, Mary Jane

Clarke, Claire  
DeStefano, Stephen  
Hager, Elizabeth  
Potter, Frances

Currier, David  
Field, William  
Nutter, Edward  
Reardon, Tara

**ROCKINGHAM**

Allen, Mary	Blanchard, MaryAnn	Cady, Harriet	Casey, Kimberley
Clark, Vivian	Coes, Betsy	Corbin, Corey	Dumaine, Dudley
Hughes, Daniel	Itse, Daniel	McEachern, Paul	McKinney, Betsy
Norelli, Terie	Pantelakos, Laura	Pitts, Jacqueline	Robertson, Carl
Shultis, Elizabeth	Splaine, James	Stone, Joseph	Vallone, Matthew

**STRAFFORD**

Brown, Julie	Callaghan, Frank	Creteau, Irene	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Vachon, Dennis
Wall, Janet			

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Jones, Constance	Leone, Richard
Phinizy, James			

**NAYS 207****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Laflam, Robert	Lawton, David	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Morrow, Harry
Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
Stevens, Stanley			

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Meador, David	Pratt, John
Royce, H Charles	Smith, Edwin		

**COOS**

Guay, Lawrence	King, Frederick	Richardson, Herbert	Stohl, Eric
Tholl, John Jr	Woodward, David		

**GRAFTON**

Alger, John	Barker, Robert	Dorsett, Andrew	Gilman, G Michael
Gionet, Edmond	Giuda, Robert	Ingbretson, Paul	Maybeck, Margie
Naro, Debra	Sorg, Gregory	Williams, Burton	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Balboni, Michael	Barry, J Gail	Batula, Peter	Bergin, Peter
Bouchard, David	Brundige, Robert	Bruno, Pierre	Buhlman, David
Cail, Kenneth	Carlson, Donald	Carter, Mark	Cernota, Albert
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela
Crane, Elenore Casey	Dionne, Kimberley	Emerton, Larry	Fields, Dennis
Gargas, Carolyn	Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr
Graham, John	Greenberg, Gary	Hall, Charles	Hansen, Ryan
Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr	Jasper, Shawn
Katsiantonis, Thomas	Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul
Lawrence, James	Luebker, Bernard	McHugh, Claire	McRae, Karen

Mercer, Robert  
O'Brien, Lori  
Slocum, Lee  
Vaillancourt, Steve

Mooney, Maureen  
Ober, Russell III  
Spiess, Paul  
Wheeler, Robert

Moran, Edward  
Ross, Lawrence  
Stepanek, Stephen

Mosher, William  
Scanlon, Michael  
Tate, Joan

### MERRIMACK

Anderson, Eric  
Fraser, Leo Jr  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom

Blanchard, Elizabeth  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Reed, Dennis

Dunne, Christopher  
Jacobson, Alf  
Langer, Ray  
Marple, Richard  
Soltani, Tony

Foley, Albert  
Kenison, Leon  
Leber, William  
Maxfield, Roy

### ROCKINGHAM

Belanger, Ronald  
Camm, Kevin  
DiFruscia, Anthony  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Introne, Robert  
Katsakiores, Phyllis  
Major, Norman  
Moore, Benjamin  
Packard, Sherman  
Roessner, Kurt  
Tufts, J Arthur  
Welch, David  
Winchell, George

Bicknell, Elbert  
Carson, Sharon  
Dodge, Robert  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Johnson, Robert  
Kelley, Jane  
Manning, John  
Morris, Richard  
Putnam, Ed II  
Ruffner, Walter  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

Bishop, Franklin  
Cooney, Richard  
Duffy, James  
Gilbert, Jeffrey  
Gould, Kenneth  
Hutchinson, Karen  
Johnson, Rogers  
Langone, John  
McCann, Richard  
Noyes, Richard  
Quandt, Matthew  
Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

Bridle, Russell  
Dalrymple, Janeen  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert  
McMahon, Charles  
O'Neil, Michael  
Rausch, James  
Smith, Paul  
Weare, E Albert  
Wiley, Robert

### STRAFFORD

Albert, Russell  
Campbell, W Packy  
Harrington, Michael  
Woods, Phyllis

Bemis, Alan  
Cataldo, Sam  
Newton, Clifford

Berube, Roger  
Dunlap, Patricia  
Scott, David

Bickford, David  
Easson, Timothy  
Twombly, James

### SULLIVAN

Flint, Gordon Sr

Rodeschin, Beverly

and the motion to print remarks was defeated.

### **HB 559**, relative to grounds for termination of employment. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: The committee heard testimony in favor of this bill which convinced us that this bill will reinforce the freedom of speech for public employees without the fear of retribution. Vote 17-1.

#### **Amendment (2496h)**

Amend RSA 275:61, I and II as inserted by section I of the bill by replacing them with the following:

I. "Employee" means any person employed by a public employer except:

(a) Persons elected by popular vote;

(b) Persons appointed to office by the chief executive or legislative body of the public employer;

(c) Persons whose duties imply a confidential relationship to the public employer; or

(d) Persons in a probationary or temporary status, or employed seasonally, irregularly or on call. For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he or she is employed.

II. "Employer" means the state and any political subdivision thereof, the judicial branch of the state, any quasi-public corporation, council, commission, agency or authority, and the state university system.

Amend RSA 275:62, I and II as inserted by section 1 of the bill by replacing them with the following:

I. No employer shall discharge, threaten or, otherwise discriminate against any employee regarding such employee's compensation, terms, conditions, location, or privileges of employment because the employee has exercised the right of free speech including the public discussion of issues of public interest concerning his or her employment.

II. Without in any way limiting the rights and protections afforded to employees under RSA 275-E, the right of protected speech shall not extend to fiduciary relationships, the divulgence of confidential financial information, trade secrets, patents, or the personal or medical records of patients, clients, or other employees without the prior consent of the patient, client, or employee.

#### AMENDED ANALYSIS

This bill protects a public employee from discharge or discrimination when the public employee has spoken about a matter that is of public interest concerning his or her employment. Protected speech does not include speech that divulges trade secrets, patents, or certain other confidential information, or information from a fiduciary relationship.

Question being adoption of the committee amendment.

Rep. Gilman spoke against.

Committee amendment failed.

Rep. Holden offered a floor amendment (0022h).

#### Floor Amendment (0022h)

Amend RSA 275:61, I and II as inserted by section 1 of the bill by replacing them with the following:

I. "Employee" means any person employed by a public employer except:

(a) Persons elected by popular vote;

(b) Persons whose duties imply a confidential relationship to the public employer; or

(c) Persons in a probationary or temporary status, or employed seasonally. For the purposes of this chapter, however, no employee shall be determined to be in a probationary status who shall have been employed for more than 12 months or who has an individual contract with his employer, nor shall any employee be determined to be in a temporary status solely by reason of the source of funding of the position in which he or she is employed.

II. "Employer" means the state and any political subdivision thereof, the judicial branch of the state, any quasi-public corporation, council, commission, agency or authority, and the state university system.

Amend RSA 275:62, I and II as inserted by section 1 of the bill by replacing them with the following:

I. No employer shall discharge, threaten or, otherwise discriminate against any employee regarding such employee's compensation, terms, conditions, location, or privileges of employment because the employee has exercised the right of free speech including the public discussion of issues of public interest concerning his or her employment.

II. Without in any way limiting the rights and protections afforded to employees under RSA 275-E, the right of protected speech shall not extend to fiduciary relationships, the divulgence of confidential financial information, trade secrets, patents, or the personal or medical records of patients, clients, or other employees without the prior consent of the patient, client, or employee. Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill protects a public employee from discharge or discrimination when the public employee has spoken about a matter that is of public interest concerning his or her employment. Protected speech does not include speech that divulges trade secrets, patents, or certain other confidential information, or information from a fiduciary relationship.

Rep. Jasper spoke in favor and yielded to questions.

Floor amendment (0022h) adopted.

Report adopted and ordered to third reading.

**HB 493**, relative to the municipal budget act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill is a result of two bills that were submitted with similar desires. One bill clearly defines "purpose" to prevent any further situations that arise when a warrant article is defeated at the annual meeting and the governing body still funds the purpose by transferring funds to the defeated purpose account. The other bill addressed the need to have the budget that is submitted by the Budget Committee be the one that is discussed at the annual meeting. The committee feels this bill addresses both issues well. Vote 11-0.

**Amendment (2538h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Municipal Budget Law; Definitions. Amend RSA 32:3, V to read as follows:

V. "Purpose" means a goal or aim to be accomplished through the expenditure of public funds. In addition, as used in RSA 32:8 and RSA 32:10, I(e), concerning the limitation on expenditures, a line on the budget form posted with the warrant *submitted by the budget committee, or the governing body if there is not a budget committee*, or form submitted to the department of revenue administration, or an appropriation contained in ~~a special~~ *any* warrant article, shall be considered a single "purpose."

2 Effective Date. This act shall take effect 60 days after its passage.

Question being adoption of the committee amendment.

Rep. Patten spoke against.

Committee amendment failed.

Rep. Patten offered a floor amendment (2575h).

**Floor Amendment (2575h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Transfer of Appropriations. Amend RSA 32:10, I (e) to read as follows:

(e) The town or district meeting may vote separately on individual purposes of appropriation contained within any warrant article or budget, but such a separate vote shall not affect the governing body's legal authority to transfer appropriations, provided, however, that if the meeting deletes a purpose, or reduces the amount appropriated for that purpose to zero *or does not approve an appropriation contained in a separate article*, that purpose *or article* shall be deemed one for which no appropriation is made, and no amount shall be transferred to or expended for such purpose.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill includes a warrant article as a purpose for which appropriations may be changed or transferred.

Rep. Patten spoke in favor.

Floor amendment (2575h) adopted.

Report adopted and ordered to third reading.

**RESOLUTION**

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, January 15, 2004 at 10:00 a.m.

Adopted.

**LATE SESSION****Third reading and final passage**

**HB 532**, relative to notice and filing of divorce petitions.

**HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

**HB 459**, relative to the taxation of manufactured housing.

**SB 99**, relative to high cost mortgage loans.

**HB 403**, requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender.

**HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system.

**HB 158**, allowing the voter to deposit the ballot into the ballot box.

**HB 236**, relative to recount application deadlines.

**HB 503**, relative to septic system construction permits.

**HB 712-FN**, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

**SB 128-FN**, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state.

**HB 643-FN**, relative to the family division of the courts.

**HB 440**, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals.

**HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities.

**HB 422**, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.

**HB 444**, relative to summoning witnesses from another state in certain actions involving children.

**HB 622-FN**, clarifying certain exemptions from the right-to-know law.

**HB 656-FN**, establishing a commission to study the operations of the family division court in Grafton county.

**HB 730-FN-L**, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.

**HB 230**, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

**HB 85-FN-L**, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

**HB 285**, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

**HB 618-FN-A**, making technical corrections to certain local property tax laws.

**HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

**HB 761**, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

**SB 176**, relative to standards for plats recorded in the registry of deeds.

**HB 697-FN**, relative to the sale of motor fuel.

**HB 65**, relative to educational assistance for national guard members.

**HCR 17**, urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general.

**HB 53**, relative to the sale of salvage and rebuilt vehicles.

**HB 176**, relative to listing candidates on ballots.

**HB 559**, relative to grounds for termination of employment.

**HB 493**, relative to the municipal budget act.

## UNANIMOUS CONSENT

Rep. Jacobson addressed the House.



**RECESS MOTION**

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.  
Adopted.

The House recessed at 2:55 p.m.

**RECESS****SENATE MESSAGES****CONCURRENCE**

**HB 299**, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses.

**NONCONCURRENCE**

**HB 167**, relative to complaints against judges.

**REFERRED FOR INTERIM STUDY**

**HB 134-FN**, relative to recommendations, appointments, and qualifications of marital masters and procedures for cases heard by marital masters.

**HB 630-FN**, relative to enhanced penalties for assault on law enforcement officers, firefighters, emergency medical care providers, and national guard members.

**RECESS**

**(Rep. Royce in the Chair)**

**RESOLUTION**

Rep. John Flanders offered the following: **RESOLVED**, that the late filing and drafting of the following bills having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bills numbered 1420 and 1421 shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

**INTRODUCTION OF SUPPLEMENTAL HOUSE BILLS****First, second reading and referral**

**HB 1420**, relative to requirements of the fish and game department before a coastal area may be closed to fishing of marine species. (Morris, Rock 84; Goyette, Hills 66; Gibson, Hills 58; Gilman, Graf 9; L. Christiansen, Hills 66: Fish and Game)

**HB 1421-FN**, relative to solid waste incineration. (Kennedy, Merr 34; Owen, Merr 34; French, Merr 34; Currier, Merr 34; C. Hamm, Merr 34: Science, Technology and Energy)

**RECESS**

**(Rep. Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 2

Thursday, January 15, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

His Excellency, Governor Craig Benson, joined the Speaker on the rostrum for the day's opening ceremonies.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Bitter weather, cold and below zero wind chill temperatures remind us, O Lord, that we are dependent upon one another for our lives and our futures. Warm the conscience of our hearts to be open to those most in need of government's protective hand, and may all that is accomplished in this honorable House today benefit all the citizens of our beloved New Hampshire.

Protect and defend the men and women of our military who defend us daily, as we especially remember those who have given their lives for our freedom and their loved ones who mourn. Protect and defend also those who stand on guard to protect us at home, especially those who serve in law enforcement and in emergency services. May our service be worth of their daily sacrifice. Amen.

Rep. Stephen H. Nedeau led the Pledge of Allegiance.

The National Anthem was sung by Holly Winchell, daughter of Rep. George Winchell and a senior at Timberlane Regional High School.

### LEAVES OF ABSENCE

Reps. Mary Allen, Crane, Doyle, Flanagan, Goyette, Hunter, Karen Hutchinson, Keans, Robert Laflam, McElroy, Milligan, Palangas, Scamman and Snyder, the day, illness.

Reps. Cail, Lars Christiansen, Flayhan, Hollinger, Lawrence, Lessard, Michon, Packard, Pantelakos, Marc Pappas, Poulin, Priestley, Rollo and Webber, the day, important business.

### INTRODUCTION OF GUESTS

Eugena and Chris Winchell, wife and son of Rep. Winchell. Lydia Scott, Surin and Delores Banta, wife and guests of Rep. Scott. Kate Price and John Bartolo, daughter and guest of Rep. Price. Adrienne Downing, guest of Rep. Paul Smith. Yvonne Cyr Bresnahan, guest of Rep. Pilote. J. David Knox, guest of Rep. Derby. Connie and Sebastian Rosemont, guests of Rep. Owen.

### COMMUNICATION

January 7, 2004

Karen Wadsworth, Clerk of the House

It is with regret that I find it necessary to resign my position as representative for the Town of Greenland, New Hampshire. This is necessitated because of personal reasons and other commitments. I consider it a great honor to have been able to learn and participate in our State Government. My best wishes to all my colleagues, especially those on the Education Committee.

Bruce L. Dearborn, Rock 87

On behalf of the House, the Speaker accepted the resignation with respect.

### REGULAR CALENDAR

**HB 563**, relative to the emancipation of minors. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.**

Rep. Elizabeth D. Blanchard for the Majority of Children and Family Law: This bill would establish the criteria and procedure by which a minor who is 16 years of age and older may be emancipated. The committee learned that other states that have an emancipation statute, unfortunately, have no follow-up information as to its success. We also discovered that in New Hampshire, an emancipated minor would not be eligible for programs and services, such as worker's compensation, health care, etc., which are already available to individuals age 18 years and older. By the same token, they would no longer be eligible for juvenile services. Therefore, because of the unintended consequences of emancipation in New Hampshire, the committee does not recommend this bill. Vote 10-7.

Rep. Thomas I Arnold for the Minority of Children and Family Law: The minority had two positions: (1) We cannot afford to delay relief for parents who have children over whom they can effect no control; and (2) the belief that we should set up a study committee to find help for homeless children.

Majority committee report adopted.

**HB 755**, relative to the burden of proof in child abuse and neglect proceedings. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Karen K. McRae for the Majority of Children and Family Law: The committee does not recommend this bill because the definition of "clear and convincing" has a different meaning to the various stakeholders in child abuse and neglect proceedings, and crafting a cogent, coherent, commonly agreed upon definition that would unequivocally advance the intent of the bill was not possible. Vote 15-2.

Rep. Daniel C. Itse for the Minority of Children and Family Law: The act of intervening in a family is generally destabilizing to the children. Therefore, it is imperative to ensure that the action is warranted. This bill would raise that level of surety from preponderance of the evidence to clear and convincing for a finding of abuse and neglect.

Rep. Itse spoke against.

Rep. McRae spoke in favor and yielded to questions.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 268 NAYS 74

### YEAS 268

#### BELKNAP

Allen, Janet	Bartlett, Gordon	Dewhirst, Glenn	Fitzgerald, James
Flanders, Donald	Holbrook, Robert	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Whalley, Michael

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	McConkey, Mark	Marrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

#### CHESHIRE

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espiefs, Peter	Fish, Douglas	Hunt, John	Liebl, George
Manning, Joseph	Meador, David	Mitchell, McKim	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Slack, Pamela	Smith, Edwin	Tilton, Anna	Weed, Charles

#### COOS

Brady, Mark	King, Frederick	Mears, Edgar	Richardson, Herbert
Stohl, Eric	Theberge, Robert	Tholl, John Jr	Woodward, David

#### GRAFTON

Akins, Ralph	Alger, John	Almy, Susan	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Giuda, Robert	Hammond, Lee	Maybeck, Margie	Naro, Debra
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

#### HILLSBOROUGH

Allan, Nelson	Artz, Lawrence	Barry, J Gail	Batula, Peter
Beaton, William	Bergin, Peter	Brassard, Paul	Brundige, Robert
Bruno, Pierre	Buckley, Raymond	Carter, Jeffrey	Carter, Mark
Chabot, Robert	Christensen, D L Chris	Clayton, William	Clemons, Jane

Cote, David  
Desmarais, Vivian  
Elliott, Larry  
Ford, Nancy  
Greenberg, Gary  
Hawkins, Ken  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
L'Heureux, Robert  
Leach, Edward  
Mercer, Robert  
Movsesian, Lori  
Pilotte, Maurice  
Rowe, Robert  
Spiess, Paul  
Tahir, Saghir

Cote, Peter  
Dionne, Kimberley  
Emerton, Larry  
Gargas, Carolyn  
Haley, Robert  
Haytayan, Harry Jr  
Jasper, Shawn  
Kerns, J Edward  
Laflamme, Charles  
Malloy, Chris  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Sullivan, Francis  
Vaillancourt, Steve

Coughlin, Pamela  
Dokmo, Cynthia  
Fields, Dennis  
Gorman, Mary  
Hall, Charles  
Holden, Randolph  
Jean, Claudette  
Kopka, Angeline  
LaFlamme, Paul  
Martin, Mary Ellen  
Mooney, Maureen  
Pappas, Christopher  
Reeves, Sandra  
Schulze, Joan  
Sullivan, Peter  
Wheeler, Robert

Craig, James  
Drisko, Richard  
Fletcher, Richard  
Graham, John  
Hallyburton, Margaret  
Infantine, William  
Johnson, Lionel  
Kurk, Neal  
Lasky, Bette  
McRae, Karen  
Moran, Edward  
Pepino, Leo  
Ross, Lawrence  
Shaw, Barbara  
Sweeney, Cynthia

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
French, Barbara  
Jacobson, Alf  
Langer, Ray  
Marple, Richard  
Osborne, Jessie  
Reed, Dennis

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Gile, Mary  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Owen, Derek  
Rush, Deanna

Bouchard, Candace  
Daniels, Eric  
Dunne, Christopher  
Hamm, Christine  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom  
Perkins, Randy  
Seldin, Gloria

Bueggemann, Donald  
Davis, Frank  
Fraser, Leo Jr  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Oliver, James  
Potter, Frances  
Wallner, Mary Jane

### ROCKINGHAM

Belanger, Ronald  
Carson, Sharon  
Corbin, Corey  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Introne, Robert  
Katsakiores, Phyllis  
Langone, John  
Noyes, Richard  
Robertson, Carl  
Splaine, James  
Waterhouse, Kevin  
Zolla, William

Bishop, Franklin  
Casey, Kimberley  
Duffy, James  
Gilbert, Jeffrey  
Gould, Kenneth  
Holland, James Jr  
Johnson, Robert  
Kelley, Jane  
Major, Norman  
O'Neil, Michael  
Roessner, Kurt  
Stone, Joseph  
Weare, E Albert

Blanchard, MaryAnn  
Coes, Betsy  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Hughes, Daniel  
Johnson, Rogers  
Kobel, Rudolph  
McKinney, Betsy  
Pitts, Jacqueline  
Shultis, Elizabeth  
Tufts, J Arthur  
Welch, David

Bridle, Russell  
Cooney, Richard  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Langley, Jane  
Norelli, Terie  
Rausch, James  
Smith, Paul  
Vallone, Matthew  
Winchell, George

### STRAFFORD

Berube, Roger  
Dunlap, Patricia  
Kaen, Naida  
Rous, Emma  
Taylor, Katherine

Brown, Julie  
Grassie, Anne  
Knowles, William  
Schmidt, Peter  
Twombly, James

Callaghan, Frank  
Heon, Richard  
Musler, George  
Smith, Marjorie  
Vachon, Dennis

Creteau, Irene  
Johnson, Nancy  
Pelletier, Arthur  
Spang, Judith  
Wall, Janet

### SULLIVAN

Allison, David  
Ferland, Brenda  
Harris, Sandra  
Rodeschin, Beverly

Burling, Peter  
Flint, Gordon Sr  
Jones, Constance

Cloutier, John  
Franklin, Peter  
Leone, Richard

Donovan, Thomas  
Harris, Joseph  
Phinizy, James

## NAYS 74 BELKNAP

Ahern, Omer Jr	Boyce, Laurie	Clark, Charles	Wendelboe, Fran
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## CARROLL

Mock, Henry

## CHESHIRE

Laurent, John	Parkhurst, Henry
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## COOS

Pratt, Leighton

## GRAFTON

Dorsett, Andrew	Dudley, Terri	Eaton, Stephanie	Gilman, G Michael
Gionet, Edmond	Ingretson, Paul	Sorg, Gregory	Williams, Burton

## HILLSBOROUGH

Adams, Jarvis	Allen, Timothy	Arnold, Thomas Jr	Balboni, Michael
Balcom, John	Bouchard, David	Buhlman, David	Cernota, Albert
Gonzalez, Carlos	Hagan, Barbara	Harrington, Paul	Hinkle, Peyton
Hopper, Gary	Luebker, Bernard	McHugh, Claire	Mosher, William
Ober, Russell III	Slocum, Lee	Souza, Kathleen	Stepanek, Stephen
Tate, Joan	Wheeler, James		

## MERRIMACK

Field, William	Foley, Albert	Nutter, Edward
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## ROCKINGHAM

Bicknell, Elbert	Cady, Harriet	Camm, Kevin	Clark, Vivian
Dodge, Robert	Dumaine, Dudley	Itse, Daniel	Letourneau, Robert
Manning, John	McCann, Richard	McEachern, Paul	McMahon, Charles
Moore, Benjamin	Morris, Richard	Putnam, Ed II	Quandt, Matthew
Smith, Donald	Varrell, Thomas	Weldy, Norman Jr	Weyler, Kenneth
Wiley, Robert			

## STRAFFORD

Albert, Russell	Bemis, Alan	Campbell, W Packy
Easson, Timothy	Harrington, Michael	Hofemann, Roland
Newton, Clifford	Scott, David	Taylor, Kathleen
		Cataldo, Sam
		Miller, Joseph
		Woods, Phyllis

## SULLIVAN

None  
and the majority committee report was adopted.

### **HB 115**, relative to nonrenewal of homeowner's insurance policies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser Jr. for Commerce: This bill would have disallowed an insurance company from non-renewing a homeowner's policy if the sole reason for non-renewal was that the policyholder had filed three or fewer valid claims during a previous policy term. The committee kept in mind that currently we are in a "hard market" (i.e., homeowner's insurance is becoming more difficult to obtain) and as such, this legislation could in all likelihood, if adopted, have an unanticipated result in that companies would be even more reluctant to write new policies in New Hampshire. All renewals would also see an even larger increase in premium to account for this mandate. To quote the Union Leader Sunday News on October 12, 2002, "... both in New Hampshire and nationally, consumers are facing a hardened market for property and casualty insurance as insurers try to stem a decade of losses...". During the past ten years, insurers paid out

\$1.18 in homeowners' claims for every \$1.00 they collected in premiums. For that reason, the Commerce Committee believes that this was not the time to take any action as proposed in the legislation. Vote 9-4.

Adopted.

**HB 265**, relative to the health care delivery system. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Paul D. Spiess for Commerce: The purpose of this bill is to institute a pilot program that encourages health insurers to develop health benefit plans and provider payment policies that promote efficiency, reduce medical errors, instill care standards, and improve the overall quality of care. The bill allows health insurers to apply to the Insurance Department for a waiver of statutory or regulatory requirements provided the proposed health benefit plan meets at least four measurement standards. The committee amended the bill to require a public hearing on the proposed plan, to limit the waiver to a period not to exceed three years, and to "sunset" the authority to grant waivers on July 1, 2007. Vote 7-6.

#### **Amendment (2430h)**

Amend RSA 420-K:1 as inserted by section 1 of the bill by replacing it with the following:

420-K:1 Purpose of Chapter. The purpose of this chapter is to reduce waste, medical errors, inconsistent care, and misallocation of resources in the state's health care delivery system by instituting a pilot program that encourages health carriers to develop health benefit plans and provider payment policies that promote a better alignment of financial incentives with health care quality improvement and efficiency.

Amend RSA 420-K:4 through 420-K:6 as inserted by section I of the bill by replacing them with the following:

420-K:4 Eligibility for Waiver of Statutory or Regulatory Requirements. A health carrier seeking to offer a health benefit plan that will promote a better alignment of financial incentives with health care quality improvement and efficiency shall be eligible, pursuant to RSA 420-K:5, to apply to the commissioner for a waiver or modification of specified statutory or regulatory requirements relating to such health benefit plan. To be eligible for the waiver, the carrier shall demonstrate to the commissioner that the design of the health benefit plan and the provider payment policies associated with the health benefit plan will meet at least 4 of the following standards:

I. Encourages providers to actively manage the care of patients with chronic health conditions or more complicated conditions and to treat such patients in accordance with evidence-based best practice guidelines.

II. Provides an opportunity for providers to share in the benefits of quality improvement and efficiency enhancements.

III. Provides the opportunity and incentive for covered persons and purchasers to recognize cost and quality differences in health care and make their decisions accordingly.

IV. Aligns financial incentives with the implementation of care processes based on evidence-based best practices and the achievement of better patient outcomes.

V. Aligns financial incentives with the implementation of programs for reducing medical errors and improving patient safety that are based on evidence-based best practices.

VI. Enables providers to coordinate care for patients across settings and over time.

VII. Creates financial incentives for providers to make resource allocation decisions based on established practice benchmarks.

420-K:5 Waiver Authority.

I. A health carrier offering or intending to offer a health benefit plan that meets the requirements of RSA 420-K:4 may apply to the commissioner for a waiver or modification of specified statutory or regulatory provisions concerning mandatory coverage requirements or network adequacy standards as they apply to such health benefit plan. The commissioner shall hold a public hearing on the proposed plan and after public hearing may grant such waiver or modification request upon a determination that:

(a) The health benefit plan and associated provider payment policies meet the requirements of RSA 420-K:4;

(b) The waiver or modification is a significant component of, and integral to, the effort to better align financial incentives with health care quality improvement and efficiency; and

(c) The health benefit plan establishes qualitative and quantitative benchmarks for measuring provider performance and the success of the payment mechanism in increasing compliance with evidenced-based practice guidelines.

II. The authority to grant waivers under this section on newly issued policies shall cease on July 1, 2007.

420-K:6 Rulemaking Authority. The commissioner may, in accordance with RSA 541-A, adopt rules as are necessary or proper to implement the waiver provisions of RSA 420-K:5.

Amend the bill by replacing all after section 1 with the following:

2 Repeal. RSA 420-K, relative to aligning health care payment policies with quality improvement, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes a pilot program to allow health benefit plans which offer better alignment of financial incentives with health care quality improvement to apply to the commissioner for a waiver of certain requirements. The pilot program is repealed on July 1, 2007.

This bill is a request of the insurance department.

Adopted.

Report adopted and ordered to third reading.

**HB 652-FN**, relative to qualified wellness or disease management programs. **OUGHT TO PASS** Rep. Leo W. Fraser Jr. for Commerce: This legislation allows health insurers in the small group and individual markets to use a rating factor (subject to the approval of the Insurance Department) to discount the premium rate for health benefit plans that include financial incentives to the employer and employee. It is hoped that this wellness program which addresses chronic disease such as diabetes, asthma and chronic heart disease, will accomplish three things: (1) Reduce medical claims costs; (2) Provide the employer with a reduced premium cost; (3) Target the individual in the group, and not the group itself. The federal law, HIPAA, already covers all of the primary issues that may be related to this legislation. Also, it is intended to encompass the quality of life of the patient. Vote 11-2.

Adopted and ordered to third reading.

### MOTION TO SPECIAL ORDER

Rep. Hess moved that **CACR 2**, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis, be made a Special Order for January 22, 2004 as the first order of business. Adopted.

**CACR 13**, relating to defining the extent of state responsibility to provide aid for public elementary and secondary education. Providing that the state shall provide aid to school districts with a fiscal capacity that is less than their education need and the aid shall be a minimum of 31 percent of the state average expenditure per public elementary and secondary pupil, calculated at least once in every 5 years. **INEXPEDIENT TO LEGISLATE**

Rep. Mark S. Carter for Education: The committee voted in a bipartisan manner to recommend ITL to the House. This amendment was originally a "companion" to HB 717 which was rejected in the Senate last session. It was the view of the committee that CACR 13 would more properly be a bill, as it seeks to establish education policy. Casting today's specific education policy imperatives into constitutional stone was considered unwise as a two-thirds popular vote would be required to make any changes in the future. Vote 15-2.

Adopted.

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard C. Leone for Education: This bill enables the Fall Mountain School District to correct an issue relative to articles of agreement for budgeting purposes. A correction was needed because the voters of the five towns had inaccurate information when they voted. Rather than require the district to wait the customary five years to correct the mistake, the committee agreed that the enabling legislation was in order under the circumstances. It was agreed that a remedy can be obtained by allowing the voters to decide. Vote 15-3.

#### **Amendment (0288h)**

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 2004.

Adopted.

Report adopted and ordered to third reading.

**HB 492**, establishing a statement of parental rights relative to school disciplinary measures, the content of educational materials and surveys, and the use of psychological testing and psychiatric drugs in schools. **REFER FOR INTERIM STUDY**

Rep. Michael A. Balboni for Education: This bill supports parental rights by requiring informed consent of the parent or legal guardian prior to the administration of psychiatric drugs to school children. New Hampshire is the No. 1 state in the nation in administering the psychotropic drug Ritalin to our school children. We heard testimony that Ritalin is a synthetic cocaine and its withdrawal symptoms include violent outbursts. Once a student is placed on Ritalin, it is very difficult to take the child off the drug. We also learned that students given Ritalin after age 12 are prevented from receiving scholarships and cannot be admitted to the country's military academies. Often, parents do not know of these future consequences when allowing their children to be given Ritalin or other mind-altering drugs. This bill would require full disclosure of the 1997 Department of Defense directive limiting military academy admittance. The bill would also require a parent or legal guardian to receive information concerning the pros and cons of such drugs and require such informed consent before the child can receive such drugs. We also heard testimony that the State of Connecticut passed a bill that is essentially the informed consent section of HB 492 (Paragraph IV). Most recognize the importance of this bill. Then why did the committee recommend interim study? The committee believes the bill can be made even better by focusing on the "informed consent" section of the bill. Therefore, an amendment is planned to be offered. Vote 12-5.

Adopted.

**HB 612-FN-L**, increasing state appropriations to school districts for certain special education costs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Barbara J. Hagan for Education: The committee unanimously agreed that this bill will go a long way to ensure that communities that struggle with catastrophic aid will be able to receive funds sooner without putting an additional constraint on New Hampshire budget resources. It also sets up mechanisms to prevent districts from "double dipping" and gives an important flow of information to the House and Senate Finance Committees so that future budgets can encompass the true picture of the districts' needs. The bill further does instruct the Department of Education to disburse all catastrophic money at the end of each fiscal year after court-ordered placements, to further lessen the burden on local school districts. Vote 18-0.

#### **Amendment (2482h)**

Amend the title of the bill by replacing it with the following:

AN ACT making certain changes to the allocation of catastrophic aid expenditures.

Amend the bill by replacing all after the enacting clause with the following:

1 Special Education; State Aid. Amend RSA 186-C:18, III-IV to read as follows:

III.(a) The state board of education through the commissioner, department of education, shall distribute aid available under this paragraph as entitlement to such school districts as have a special education pupil for whose costs they are responsible, for whom the costs of special education in the fiscal year ~~exceed 3 1/2~~ *exceeds the sum of 3* times the estimated state average expenditure per pupil for the school year preceding the year of distribution *plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both*. If in any year, the amount appropriated for distribution as catastrophic special



education 186-C:18 aid in accordance with this section is insufficient therefor, the appropriation shall be prorated proportionally based on entitlement among the districts entitled to a grant. If there are unexpended funds appropriated under this paragraph at the end of any fiscal year, such funds shall be distributed for court-ordered placements under RSA 186-C:19-b. *Any funds remaining after distribution for court-ordered placements shall be distributed to school districts in proportion to the number of educationally disabled pupils in each school district.* The state may designate up to \$250,000 of the funds which are appropriated as required by this paragraph, for each fiscal year, to assist those school districts which, under guidelines established by rules of the state board of education, may qualify for emergency assistance for special education costs. Upon application to the commissioner of education, and approval by the commissioner, such funds may be accepted and expended by school districts in accordance with this chapter; provided, however, that if a school district has received emergency assistance funds for certain educationally disabled children, it shall not receive catastrophic special education aid for those same educationally disabled children. If any of the funds designated for emergency assistance under this paragraph are not used for such emergency assistance purposes, the funds shall be used to assist school districts in meeting catastrophic cost increases in their special education programs as provided by this paragraph.

(b) The school district shall be liable for ~~[3+1/2]~~ 3 times the estimated state average expenditure per pupil for the school year preceding the year of distribution, *plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both* plus 20 percent of the additional cost, up to ~~[+0]~~ 8 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

(c) The department of education shall be liable for 80 percent of the cost above the ~~[3+1/2]~~ 3 times the estimated state average expenditure per pupil for the school year preceding the year of distribution, *plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both*, up to ~~[+0]~~ 8 times the estimated state average expenditure per pupil for the school year preceding the year of distribution. The department of education shall be liable for all costs in excess of ~~[+0]~~ 8 times the estimated state average expenditure per pupil for the school year preceding the year of distribution.

*(d) Upon the effective date of this subparagraph, any additional federal special education funds received by school districts shall be dedicated for distribution as catastrophic aid in accordance with this paragraph.*

*(e) Beginning November 1, 2004, and annually thereafter, the governing body of the school district shall submit a report to the house and senate finance committees detailing all federal special education funds received in the immediately preceding school year including an accounting of how such funds were expended.*

IV. The state shall appropriate \$300,000 for each fiscal year to assist special education programs that are statewide in their scope, and that meet the standards for such programs established by the state board of education. Funds under this paragraph shall be administered and distributed by the state board of education through the commissioner.

2 Special Education; State Aid. Amend RSA 186-C:18, VIII to read as follows:

VIII. A school district shall raise, appropriate and expend funds, reflecting the total cost in meeting catastrophic special education student costs as provided under RSA 186-C:18, including the school district and department of education liability. A school district may issue reimbursement anticipation notes as provided for in RSA 198:20-d to be redeemed upon receipt of reimbursement from the state. The department of education shall be liable for the cost of the school districts borrowing of any funds for special education student costs over ~~[3+1/2]~~ 3 times the estimated state average expenditure per pupil for the school year preceding the year of distribution *plus any additional federal funds received by a school district for educationally disabled children, or court-ordered placements, or both.*

3 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill changes the formula used to determine liability for catastrophic aid expenses.

Adopted.

Report adopted.

Referred to Finance.

**HB 641-FN-A-L**, targeting aid for education to certain school districts. **INEXPEDIENT TO LEGISLATE**

Rep. John R.M. Alger for Education: The committee retained this bill in case it would be needed. However, with the passage of HB 608 into law, the bill is not needed, and the prime sponsor agrees. Vote 17-0.

Adopted.

**HB 754-FN-L**, establishing an education certificate program to allow parental choice in the selection of schools for children. **REFER FOR INTERIM STUDY**

Rep. Stephen R. L'Heureux for Education: After months of work, the Education Committee was still not able to come to a majority consensus on HB 754. We applaud the work of all of those involved in the process, from the public hearings and subcommittee work to the numerous e-mails and phone calls. It seems that the question is not if – but how – to best institute choice. The bipartisan vote reflects the committee's desire to continue to study this issue for New Hampshire's children. Vote 16-1.

Rep. Weyler spoke against and yielded to questions.

Reps. Ingbretson and Scott spoke against.

Reps. Rush, Kurk and Stephen L'Heureux spoke in favor.

Rep. Albert requested a roll call, sufficiently seconded.

The question being adoption of the committee report.

**YEAS 233 NAYS 118****YEAS 233****BELKNAP**

Allen, Janet	Bartlett, Gordon	Dewhirst, Glenn	Fitzgerald, James
Holbrook, Robert	Nedeau, Stephen	Pilliod, James	Rice, Thomas
Russell, David	Thomas, John	Whalley, Michael	

**CARROLL**

Babson, David Jr	Brown, Carolyn	Hatch, Paul	Kenney, Bettie
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Liebl, George	Manning, Joseph	Meader, David	Mitchell, McKim
Parkhurst, Henry	Pratt, Irene	Pratt, John	Richardson, Barbara
Robertson, Timothy	Royce, H Charles	Slack, Pamela	Smith, Edwin
Tilton, Anna	Weed, Charles		

**COOS**

Mears, Edgar	Richardson, Herbert	Stohl, Eric	Theberge, Robert
Tholl, John Jr	Woodward, David		

**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Eaton, Stephanie
Giuda, Robert	Hammond, Lee	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter		

**HILLSBOROUGH**

Allan, Nelson	Balcom, John	Batula, Peter	Bergin, Peter
Bouchard, David	Brassard, Paul	Brundige, Robert	Buckley, Raymond
Carter, Jeffrey	Carter, Mark	Chabot, Robert	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Desmarais, Vivian	Dokmo, Cynthia	Drisko, Richard
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Ford, Nancy

Gargas, Carolyn  
Haley, Robert  
Infantine, William  
Johnson, Lionel  
L'Heureux, Robert  
Lefebvre, Roland  
Mosher, William  
Pilotte, Maurice  
Rowe, Robert  
Spiess, Paul  
Tahir, Saghir

Gorman, Mary  
Hall, Charles  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
LaFlamme, Paul  
Malloy, Chris  
Movsesian, Lori  
Price, Pamela  
Scanlon, Michael  
Sullivan, Francis  
Tate, Joan

Graham, John  
Haytayan, Harry Jr  
Jasper, Shawn  
Kopka, Angeline  
Lasky, Bette  
Messier, Irene  
Pappas, Christopher  
Reeves, Sandra  
Schulze, Joan  
Sullivan, Peter  
Vaillancourt, Steve

Greenberg, Gary  
Holden, Randolph  
Jean, Claudette  
Kurk, Neal  
Leach, Edward  
Moran, Edward  
Pepino, Leo  
Ross, Lawrence  
Shaw, Barbara  
Sweeney, Cynthia  
Wheeler, Robert

### MERRIMACK

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

Bouchard, Candace  
Daniels, Eric  
Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
Marple, Richard  
Owen, Derek  
Reed, Dennis  
Brueggemann, Donald  
Davis, Frank  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy  
Perkins, Randy  
Rush, Deanna

Clarke, Claire  
DeJoie, John  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
Oliver, James  
Potter, Frances  
Seldin, Gloria

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Belanger, Ronald  
Coes, Betsy  
Flanders, John Sr  
Gleason, John  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
Noyes, Richard  
Robertson, Carl  
Tufts, J Arthur  
Zolla, William

Blanchard, MaryAnn  
Cooney, Richard  
Francoeur, Sheila  
Gould, Kenneth  
Katsakiores, George  
Langley, Jane  
Manning, John  
O'Neil, Michael  
Shultis, Elizabeth  
Vallone, Matthew  
Bridle, Russell  
Corbin, Corey  
Gilbert, Jeffrey  
Griffin, Mary  
Katsakiores, Phyllis  
Langone, John  
McEachern, Paul  
Pitts, Jacqueline  
Splaine, James  
Welch, David

Casey, Kimberly  
Duffy, James  
Gillick, Thomas  
Holland, James Jr  
Kelley, Jane  
Letourneau, Robert  
Norelli, Terie  
Rausch, James  
Stone, Joseph  
Winchell, George

### STRAFFORD

Berube, Roger  
Creteau, Irene  
Hofemann, Roland  
Miller, Joseph  
Schmidt, Peter  
Taylor, Kathleen

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Musler, George  
Smith, Marjorie  
Wall, Janet

Brown, Julie  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Spang, Judith

Callaghan, Frank  
Heon, Richard  
Knowles, William  
Rous, Emma  
Taylor, Katherine

### SULLIVAN

Allison, David  
Flint, Gordon Sr  
Jones, Constance

Burling, Peter  
Franklin, Peter  
Leone, Richard

Cloutier, John  
Harris, Joseph  
Phinizz, James

Ferland, Brenda  
Harris, Sandra  
Rodeschin, Beverly

### NAYS 118

### BELKNAP

Ahern, Omer Jr  
Wendelboe, Fran

Boyce, Laurie

Clark, Charles

Flanders, Donald

### CARROLL

Derby, Mark  
Mock, Henry

Dickinson, Howard

McConkey, Mark

Marrow, Harry

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
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**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
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**GRAFTON**

Alger, John	Dorsett, Andrew	Dudley, Terri	Gilman, G Michael
Gionet, Edmond	Ingretson, Paul	Maybeck, Margie	Naro, Debra
Sorg, Gregory	Williams, Burton		

**HILLSBOROUGH**

Adams, Jarvis	Allen, Timothy	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Barry, J Gail	Beaton, William	Bruno, Pierre
Buhlman, David	Cernota, Albert	Christensen, D L Chris	Dionne, Kimberley
Elliott, Larry	Gonzalez, Carlos	Hagan, Barbara	Hallyburton, Margaret
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Hinkle, Peyton
Hopper, Gary	Kerns, J Edward	Lafamme, Charles	Luebker, Bernard
Martin, Mary Ellen	McHugh, Claire	McRae, Karen	Mercer, Robert
Mooney, Maureen	O'Brien, Lori	Ober, Russell III	Slocum, Lee
Souza, Kathleen	Stepanek, Stephen	Wheeler, James	

**MERRIMACK**

Anderson, Eric	Dunne, Christopher	Field, William	Kennedy, Richard
Langer, Ray	Leber, William	McCormick, Tom	Nutter, Edward
Soltani, Tony			

**ROCKINGHAM**

Bicknell, Elbert	Bishop, Franklin	Cady, Harriet	Camm, Kevin
Carson, Sharon	Clark, Vivian	DiFruscia, Anthony	Dodge, Robert
Dumaine, Dudley	Fesh, Bob	Gilbert, Karl	Hamel, Albert
Headd, James	Hughes, Daniel	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Rogers	McCann, Richard	McKinney, Betsy
McMahon, Charles	Moore, Benjamin	Morris, Richard	Putnam, Ed II
Quandt, Matthew	Roessner, Kurt	Smith, Donald	Smith, Paul
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Weldy, Norman Jr
Weyler, Kenneth	Wiley, Robert		

**STRAFFORD**

Albert, Russell	Bemis, Alan	Campbell, W Packy	Cataldo, Sam
Easson, Timothy	Harrington, Michael	Newton, Clifford	Scott, David
Twombly, James	Vachon, Dennis	Woods, Phyllis	

**SULLIVAN**

Donovan, Thomas  
and the committee report was adopted.

**HB 264, establishing state representative districts. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard C. Dickinson for the Majority of Election Law: The committee retained HB 264 to examine the court-established House districts to determine if it was possible to create smaller districts with acceptable deviations. The committee will be receiving at least five bills concerning the subject of House redistricting next year (2004). HB 264, as amended, rennumbers each district by county and divides the following existing House districts: Belknap County #31 (into two districts), Grafton County #17 (into two districts), Cheshire County #26 (into two districts), Merrimack County #34 (into three districts), Rockingham County #79 (into two districts), and Strafford County #67 (into two districts). We were also able to increase the number of districts in the City of Manchester from eight to ten districts. Vote 10-4.

Rep. James R. Splaine for the Minority of Election Law: The minority wonders how often we're going to redistrict this state? Are we going to do it as the Constitution allows – every ten years after a thorough census – which was done last year? Or, are we going to do it after every election, when one party in power determines that it can redistrict itself even more legislative seats? Let's be fair to one another, and stop the gamespersonship.

### Majority Amendment (2458h)

Amend the bill by replacing all after the enacting clause with the following:

1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:

662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:

I. Belknap County	
District No. 1	Center Harbor New Hampton Sanbornton Tilton 3
District No. 2	Laconia Wards 1-6 Meredith 7
District No. 3	Alton Barnstead Belmont Gilford 7
District No. 4	Gilmanton 1
II. Carroll County	
District No. 1	Bartlett Chatham Conway Hale's Location Hart's Location Jackson 4
District No. 2	Albany Eaton Madison 1
District No. 3	Freedom Ossipee Sandwich Tamworth 3
District No. 4	Moultonborough Tuftonboro Wolfeboro 4
District No. 5	Brookfield Effingham Wakefield 2
III. Cheshire County	
District No. 1	Alstead Gilsum Marlow Nelson Roxbury Stoddard Sullivan Surry Walpole Westmoreland 4
District No. 2	Keene Wards 1-5 7

District No. 3	Chesterfield	
	Hinsdale	
	Winchester	4
District No. 4	Fitzwilliam	
	Richmond	1
District No. 5	Harrisville	
	Marlborough	
	Swansey	
	Troy	4
District No. 6	Dublin	
	Jaffrey	
	Rindge	4
	IV. Coos County	
District No. 1	Atkinson & Gilmanton Academy Grant	
	Cambridge	
	Clarksville	
	Colebrook	
	Columbia	
	Dix's Grant	
	Dixville	
	Dummer	
	Errol	
	Erving's Location	
	Millsfield	
	Odell	
	Pittsburg	
	Second College Grant	
	Stewartstown	
	Wentworth's Location	2
District No. 2	Bean's Grant	
	Carroll	
	Chandler's Purchase	
	Crawford's Purchase	
	Cutt's Grant	
	Dalton	
	Gorham	
	Green's Grant	
	Hadley's Purchase	
	Jefferson	
	Kilkenny	
	Lancaster	
	Low and Burbank's Grant	
	Martin's Location	
	Northumberland	
	Pinkham's Grant	
	Randolph	
	Sargent's Purchase	
	Stark	
	Stratford	
	Thompson and Meserve's Purchase	
	Whitefield	5
District No. 3	Bean's Purchase	
	Berlin Wards 1-4	
	Milan	
	Shelburne	
	Success	4

	V. Grafton County	
District No. 1	Littleton	
	Lyman	2
District No. 2	Bethlehem	
	Franconia	1
District No. 3	Bath	
	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
	Waterville Valley	2
District No. 4	Thornton	
	Woodstock	1
District No. 5	Benton	
	Haverhill	
	Piermont	
	Warren	2
District No. 6	Campton	
	Ellsworth	
	Orford	
	Rumney	
	Wentworth	2
District No. 7	Hebron	
	Plymouth	2
District No. 8	Alexandria	
	Ashland	
	Bridgewater	
	Bristol	
	Groton	
	Holderness	3
District No. 9	Hanover	
	Lyme	4
District No. 10	Canaan	
	Dorchester	
	Enfield	
	Grafton	
	Orange	3
District No. 11	Lebanon Wards 1-3	4
	VI. Hillsborough County	
District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2
District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	

	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
District No. 15	Manchester Ward 8	3
District No. 16	Manchester Ward 9	3
District No. 17	Manchester Wards 10, 11, and 12	8
District No. 18	Bedford	6
District No. 19	Litchfield	
	Merrimack	11
District No. 20	Nashua Ward 1	3
District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Wards 4 and 6	6
District No. 24	Nashua Ward 5	3
District No. 25	Nashua Wards 7 and 8	6
District No. 26	Nashua Ward 9	3
District No. 27	Hudson	
	Pelham	11
VII. Merrimack County		
District No. 1	Danbury	
	New London	
	Wilmot	2
District No. 2	Franklin Wards 1-3	
	Hill	3
District No. 3	Newbury	
	Sutton	1
District No. 4	Hopkinton	
	Warner	
	Webster	3
District No. 5	Bradford	
	Henniker	2
District No. 6	Andover	
	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
	Salisbury	6
District No. 7	Chichester	
	Pembroke	3
District No. 8	Allenstown	
	Epsom	
	Hooksett	
	Pittsfield	8



District No. 9	Concord Wards 1, 2, and 3	4
District No. 10	Concord Wards 4, 8, 9, and 10	5
District No. 11	Concord Wards 5, 6, and 7	4
District No. 12	Bow	
	Dunbarton	3

## VIII. Rockingham County

District No. 1	Candia	
	Deerfield	
	Northwood	
	Nottingham	5
District No. 2	Raymond	3
District No. 3	Auburn	
	Londonderry	9
District No. 4	Salem	
	Windham	12
District No. 5	Derry	11
District No. 6	Atkinson	2
District No. 7	Chester	
	Danville	
	Sandown	4
District No. 8	Hampstead	
	Kingston	
	Plaistow	7
District No. 9	Brentwood	
	Epping	
	Fremont	4
District No. 10	East Kingston	
	Newton	2
District No. 11	Newfields	
	Newmarket	3
District No. 12	Exeter	
	North Hampton	
	Stratham	8
District No. 13	Hampton Falls	
	Kensington	
	Seabrook	
	South Hampton	4
District No. 14	Hampton	5
District No. 15	Newington	
	Portsmouth Wards 1-5	7
District No. 16	Greenland	1
District No. 17	New Castle	
	Rye	2

## IX. Strafford County

District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	
	Milton	
	New Durham	
	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3

District No. 7	Durham	
	Lee	
	Madbury	6
	X. Sullivan County	
District No. 1	Cornish	
	Grantham	
	Plainfield	2
District No. 2	Croydon	
	Goshen	
	Newport	
	Springfield	
	Washington	3
District No. 3	Sunapee	1
District No. 4	Claremont Wards 1-3	
	Lempster	
	Unity	5
District No. 5	Acworth	
	Charlestown	
	Langdon	2

2 Application. The changes in state representative districts established by this act shall not affect constituencies or terms of office of representatives presently in office. The state representative districts established by this act shall be in effect for the purpose of electing representatives at the 2004 state general election. If there shall be a vacancy in a state representatives district for any reason prior to the 2004 state general election, the vacancy shall be filled by and from the same state representative district that existed for the 2002 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the house of representatives of the general court that assembled for a biennial session in January 2003.

3 Effective Date. This act shall take effect 60 days after its passage.  
Majority amendment adopted.  
Rep. Whalley offered a floor amendment (0036h).

**Floor Amendment (0036h)**

Amend the bill by replacing section 1 with the following:  
1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:  
662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:

	I. Belknap County	
District No. 1	Center Harbor	
	New Hampton	
	Sanbornton	
	Tilton	3
District No. 2	Laconia Wards 1-6	
	Meredith	7
District No. 3	Alton	
	Barnstead	
	Belmont	
	Gilford	7
District No. 4	Gilmanton	1
	II. Carroll County	
District No. 1	Bartlett	
	Chatham	
	Conway	
	Hale's Location	
	Hart's Location	
	Jackson	4

District No. 2	Albany	
	Eaton	
	Madison	1
District No. 3	Freedom	
	Ossipee	
	Sandwich	
	Tamworth	3
District No. 4	Moultonborough	
	Tuftonboro	
	Wolfeboro	4
District No. 5	Brookfield	
	Effingham	
	Wakefield	2
	III. Cheshire County	
District No. 1	Gilsum	
	Surry	
	Westmoreland	1
District No. 2	Alstead	
	Marlow	
	Nelson	
	Roxbury	
	Stoddard	
	Sullivan	
	Walpole	3
District No. 3	Keene Wards 1-5	7
District No. 4	Chesterfield	
	Hinsdale	
	Winchester	4
District No. 5	Fitzwilliam	
	Richmond	1
District No. 6	Harrisville	
	Marlborough	
	Swanzy	
	Troy	4
District No. 7	Dublin	
	Jaffrey	
	Rindge	4
	IV. Coos County	
District No. 1	Atkinson & Gilmanton Academy Grant	
	Cambridge	
	Clarksville	
	Colebrook	
	Columbia	
	Dix's Grant	
	Dixville	
	Dummer	
	Errol	
	Erving's Location	
	Millsfield	
	Odell	
	Pittsburg	
	Second College Grant	
	Stewartstown	
	Wentworth's Location	2

District No. 2	Bean's Grant	
	Carroll	
	Chandler's Purchase	
	Crawford's Purchase	
	Cutt's Grant	
	Dalton	
	Gorham	
	Green's Grant	
	Hadley's Purchase	
	Jefferson	
	Kilkenny	
	Lancaster	
	Low and Burbank's Grant	
	Martin's Location	
	Northumberland	
	Pinkham's Grant	
	Randolph	
	Sargent's Purchase	
	Stark	
	Stratford	
District No. 3	Thompson and Meserve's Purchase	
	Whitefield	5
	Bean's Purchase	
	Berlin Wards 1-4	
	Milan	
District No. 1	Shelburne	
	Success	4
District No. 2	V. Grafton County	
	Littleton	
District No. 2	Lyman	2
	Bethlehem	
District No. 3	Franconia	1
	Bath	
District No. 4	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
	Waterville Valley	2
	Thornton	
	Woodstock	1
District No. 5	Benton	
	Haverhill	
	Piermont	
	Warren	2
District No. 6	Campton	
	Ellsworth	
	Orford	
	Rumney	
	Wentworth	2
District No. 7	Hebron	
	Plymouth	2
District No. 8	Alexandria	
	Ashland	

	Bridgewater	
	Bristol	
	Groton	
	Holderness	3
District No. 9	Hanover	
	Lyme	4
District No. 10	Canaan	
	Dorchester	
	Enfield	
	Grafton	
	Orange	3
District No. 11	Lebanon Wards 1-3	4
	VI. Hillsborough County	
District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2
District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	
	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
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District No. 19	Litchfield	
	Merrimack	11
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District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Wards 4 and 6	6
District No. 24	Nashua Ward 5	3
District No. 25	Nashua Wards 7 and 8	6

District No. 26	Nashua Ward 9	3
District No. 27	Hudson	
	Pelham	11
VII. Merrimack County		
District No. 1	Danbury	
	New London	
	Wilmot	2
District No. 2	Franklin Wards 1-3	
	Hill	3
District No. 3	Newbury	
	Sutton	1
District No. 4	Hopkinton	
	Warner	
	Webster	3
District No. 5	Bradford	
	Henniker	2
District No. 6	Andover	
	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
	Salisbury	6
District No. 7	Chichester	
	Pembroke	3
District No. 8	Allenstown	
	Epsom	
	Hooksett	
	Pittsfield	8
District No. 9	Concord Wards 1, 2, and 3	4
District No. 10	Concord Wards 4, 8, 9, and 10	5
District No. 11	Concord Wards 5, 6, and 7	4
District No. 12	Bow	
	Dunbarton	3
VIII. Rockingham County		
District No. 1	Candia	
	Deerfield	
	Northwood	
	Nottingham	5
District No. 2	Raymond	3
District No. 3	Auburn	
	Londonderry	9
District No. 4	Salem	
	Windham	13
District No. 5	Derry	11
District No. 6	Atkinson	2
District No. 7	Chester	
	Danville	
	Sandown	4
District No. 8	Hampstead	
	Kingston	
	Plaistow	7
District No. 9	Brentwood	
	Epping	
	Fremont	4
District No. 10	East Kingston	
	Newton	2

District No. 11	Newfields	
	Newmarket	3
District No. 12	Exeter	
	North Hampton	
	Stratham	8
District No. 13	Hampton Falls	
	Kensington	
	Seabrook	
	South Hampton	4
District No. 14	Hampton	5
District No. 15	Newington	
	Portsmouth Wards 1-5	7
District No. 16	Greenland	1
District No. 17	New Castle	
	Rye	2
	IX. Strafford County	
District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	
	Milton	
	New Durham	
	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3
District No. 7	Durham	
	Lee	
	Madbury	6
	X. Sullivan County	
District No. 1	Cornish	
	Grantham	
	Plainfield	2
District No. 2	Croydon	
	Goshen	
	Newport	
	Springfield	
	Washington	3
District No. 3	Sunapee	1
District No. 4	Claremont Wards 1-3	
	Lempster	
	Unity	5
District No. 5	Acworth	
	Charlestown	
	Langdon	2

Reps. Whalley and Berube spoke in favor.

Floor amendment (0036h) adopted.

Rep. Buckley offered a floor amendment (0099h).

#### **Floor Amendment (0099h)**

Amend RSA 662:5, V as inserted by section 1 of the bill by replacing it with the following:

	V. Grafton County	
District No. 1	Littleton	
	Lyman	2

District No. 2	Bethlehem	
	Franconia	1
District No. 3	Bath	
	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
	Waterville Valley	2
District No. 4	Thornton	
	Woodstock	1
District No. 5	Benton	
	Haverhill	
	Piermont	
	Warren	2
District No. 6	Campton	
	Ellsworth	
	Orford	
	Rumney	
	Wentworth	2
District No. 7	Hebron	
	Plymouth	2
District No. 8	Alexandria	
	Ashland	
	Bridgewater	
	Bristol	
	Groton	
	Holderness	3
District No. 9	Hanover	
	Lyme	4
District No. 10	Canaan	
	Dorchester	
	Enfield	
	Grafton	
	Orange	3
District No. 11	Lebanon Wards 1-3	4

Rep. Buckley spoke against.  
Rep. Buckley requested a roll call; sufficiently seconded.  
The question being adoption of floor amendment (0099h)

**YEAS 6 NAYS 342**

**YEAS 6**  
**BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

None

**COOS**

None

**GRAFTON**

None



**HILLSBOROUGH**

Adams, Jarvis

Johnson, Lionel

**MERRIMACK**

Leber, William

**ROCKINGHAM**

Waterhouse, Kevin

**STRAFFORD**

Berube, Roger

Creteau, Irene

**SULLIVAN**

None

**NAYS 342****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Holbrook, Robert  
Rice, Thomas

Allen, Janet  
Dewhirst, Glenn  
Lawton, David  
Russell, David

Bartlett, Gordon  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Boyce, Laurie  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, Stanley

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Merrow, Harry  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy  
Tilton, Anna

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, Irene  
Royce, H Charles  
Weed, Charles

Dunn, James  
Hunt, John  
Meador, David  
Pratt, John  
Slack, Pamela

Eaton, Daniel  
Laurent, John  
Mitchell, McKim  
Richardson, Barbara  
Smith, Edwin

**COOS**

Brady, Mark  
Pratt, Leighton  
Tholl, John Jr

Guay, Lawrence  
Richardson, Herbert  
Woodward, David

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

**GRAFTON**

Akins, Ralph  
Bleyler, Ruth  
Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie  
Sokol, Hilda

Alger, John  
Cooney, Mary  
Dudley, Terri  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Eaton, Stephanie  
Hammond, Lee  
Nordgren, Sharon  
Sorg, Gregory

Benn, Bernard  
Diamond, Estelle  
Gilman, G Michael  
Ingbretson, Paul  
Scovner, Nancy  
Williams, Burton

**HILLSBOROUGH**

Allan, Nelson  
Balcom, John  
Bergin, Peter  
Bruno, Pierre  
Carter, Jeffrey  
Christensen, D L Chris  
Cote, Peter

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Buckley, Raymond  
Carter, Mark  
Clayton, William  
Coughlin, Pamela

Artz, Lawrence  
Batula, Peter  
Brassard, Paul  
Buhlman, David  
Cernota, Albert  
Clemons, Jane  
Desmarais, Vivian

Balboni, Michael  
Beaton, William  
Brundige, Robert  
Carlson, Donald  
Chabot, Robert  
Cote, David  
Dionne, Kimberley

Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Greenberg, Gary  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William  
Katsiantonis, Thomas  
Laffamme, Charles  
Lefebvre, Roland  
McHugh, Claire  
Mooney, Maureen  
O'Brien, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Souza, Kathleen  
Sullivan, Peter  
Vaillancourt, Steve

Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Hagan, Barbara  
Hansen, Ryan  
Hinkle, Peyton  
Irwin, Anne-Marie  
Kopka, Angeline  
LaFlamme, Paul  
Luebckert, Bernard  
McRae, Karen  
Moran, Edward  
Ober, Russell III  
Price, Pamela  
Schulze, Joan  
Spiess, Paul  
Sweeney, Cynthia  
Wheeler, James

Elliott, Larry  
Ford, Nancy  
Gorman, Mary  
Haley, Robert  
Harrington, Paul  
Holden, Randolph  
Jasper, Shawn  
Kurk, Neal  
Lasky, Bette  
Malloy, Chris  
Mercer, Robert  
Mosher, William  
Pappas, Christopher  
Reeves, Sandra  
Shaw, Barbara  
Stepanek, Stephen  
Tahir, Saghir  
Wheeler, Robert

Emerton, Larry  
Gargas, Carolyn  
Graham, John  
Hall, Charles  
Hawkins, Ken  
Hopper, Gary  
Jean, Claudette  
L'Heureux, Robert  
Leach, Edward  
Martin, Mary Ellen  
Messier, Irene  
Movsesian, Lori  
Pepino, Leo  
Rowe, Robert  
Slocum, Lee  
Sullivan, Francis  
Tate, Joan

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
Lockwood, Priscilla  
Nutter, Edward  
Perkins, Randy  
Rush, Deanna

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Fraser, Leo Jr  
Hamm, Christine  
Kennedy, Richard  
MacKay, James  
Oliver, James  
Potter, Frances  
Seldin, Gloria

Bouchard, Candace  
Daniels, Eric  
Dunne, Christopher  
French, Barbara  
Hess, David  
L'Heureux, Stephen  
Marple, Richard  
Osborne, Jessie  
Reardon, Tara  
Soltani, Tony

Brueggemann, Donald  
Davis, Frank  
Field, William  
Gile, Mary  
Jacobson, Alf  
Langer, Ray  
McCormick, Tom  
Owen, Derek  
Reed, Dennis  
Wallner, Mary Jane

### ROCKINGHAM

Belanger, Ronald  
Bridle, Russell  
Casey, Kimberley  
Corbin, Corey  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McEachern, Paul  
Morris, Richard  
Pitts, Jacqueline  
Robertson, Carl  
Smith, Donald  
Tufts, J Arthur  
Welch, David  
Winchell, George

Bicknell, Elbert  
Cady, Harriet  
Clark, Vivian  
DiFruscia, Anthony  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McKinney, Betsy  
Norelli, Terie  
Putnam, Ed II  
Roessner, Kurt  
Smith, Paul  
Vallone, Matthew  
Weldy, Norman Jr  
Zolla, William

Bishop, Franklin  
Camm, Kevin  
Coes, Betsy  
Dodge, Robert  
Flanders, John Sr  
Gleason, John  
Headd, James  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
Manning, John  
McMahon, Charles  
Noyes, Richard  
Quandt, Matthew  
Ruffner, Walter  
Splaine, James  
Varrell, Thomas  
Weyler, Kenneth

Blanchard, MaryAnn  
Carson, Sharon  
Cooney, Richard  
Duffy, James  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Moore, Benjamin  
O'Neil, Michael  
Rausch, James  
Shultis, Elizabeth  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

### STRAFFORD

Albert, Russell  
Callaghan, Frank  
Easson, Timothy  
Hofemann, Roland

Bemis, Alan  
Campbell, W Packy  
Grassie, Anne  
Johnson, Nancy

Bickford, David  
Cataldo, Sam  
Harrington, Michael  
Kaen, Naida

Brown, Julie  
Dunlap, Patricia  
Heon, Richard  
Knowles, William

Miller, Joseph  
Rous, Emma  
Spang, Judith  
Vachon, Dennis

Musler, George  
Schmidt, Peter  
Taylor, Katherine  
Wall, Janet

Newton, Clifford  
Scott, David  
Taylor, Kathleen  
Woods, Phyllis

Pelletier, Arthur  
Smith, Marjorie  
Twombly, James

### SULLIVAN

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Jones, Constance

Cloutier, John  
Franklin, Peter  
Leone, Richard

Donovan, Thomas  
Harris, Joseph  
Phinizy, James

Rodeschin, Beverly

and floor amendment (0099h) failed.

Rep. Buckley offered a floor amendment (0101h).

### Floor Amendment (0101h)

Amend RSA 662:5, VI as inserted by section 1 of the bill by replacing it with the following:

#### VI. Hillsborough County

District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2
District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	
	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
District No. 15	Manchester Ward 8	3
District No. 16	Manchester Ward 9	3
District No. 17	Manchester Wards 10, 11, and 12	8
District No. 18	Bedford	6
District No. 19	Litchfield	
	Merrimack	11
District No. 20	Nashua Ward 1	3
District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Wards 4 and 6	6

District No. 24	Nashua Ward 5	3
District No. 25	Nashua Wards 7 and 8	6
District No. 26	Nashua Ward 9	3
District No. 27	Hudson	
	Pelham	11

Rep. Buckley spoke in favor.

Floor amendment (0101h) failed.

Rep. Buckley offered a floor amendment (0102h).

### **Floor Amendment 0102h)**

Amend RSA 662:5, IX as inserted by section 1 of the bill by replacing it with the following:

#### **IX. Strafford County**

District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	
	Milton	
	New Durham	
	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3
District No. 7	Durham	
	Lee	
	Madbury	6

Rep. Buckley spoke in favor and requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0102h).

### **YEAS 58 NAYS 292**

#### **YEAS 58**

#### **BELKNAP**

None

#### **CARROLL**

None

#### **CHESHIRE**

Dunn, James	Eaton, Daniel	Meador, David	Pratt, Irene
Richardson, Barbara	Robertson, Timothy	Tilton, Anna	Weed, Charles

#### **COOS**

Theberge, Robert

#### **GRAFTON**

Bleyler, Ruth	Densmore, Edward	Diamond, Estelle
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#### **HILLSBOROUGH**

Brassard, Paul	Buckley, Raymond	Clayton, William	Clemons, Jane
Craig, James	Gorman, Mary	Haley, Robert	Katsiantonis, Thomas
Lasky, Bette	Malloy, Chris	Movsesian, Lori	Pappas, Christopher
Schulze, Joan	Shaw, Barbara	Sullivan, Francis	Sullivan, Peter

#### **MERRIMACK**

Davis, Frank	DeStefano, Stephen	French, Barbara	Gile, Mary
Hamm, Christine	Perkins, Randy	Potter, Frances	Reardon, Tara
Rush, Deanna	Seldin, Gloria		

**ROCKINGHAM**

Cady, Harriet  
Shultis, Elizabeth

Casey, Kimberley  
Vallone, Matthew

Corbin, Corey

Pitts, Jacqueline

**STRAFFORD**

Berube, Roger  
Hofemann, Roland  
Schmidt, Peter

Brown, Julie  
Knowles, William  
Spang, Judith

Callaghan, Frank  
Newton, Clifford  
Taylor, Katherine

Grassie, Anne  
Rous, Emma

**SULLIVAN**

Allison, David

Donovan, Thomas

Franklin, Peter

**NAYS 292****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Holbrook, Robert  
Rice, Thomas

Allen, Janet  
Dewhirst, Glenn  
Lawton, David  
Russell, David

Bartlett, Gordon  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Boyce, Laurie  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, Stanley

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Morrow, Harry  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Hunt, John  
Mitchell, McKim  
Slack, Pamela

Dexter, Judson  
Laurent, John  
Parkhurst, Henry  
Smith, Edwin

Espies, Peter  
Liebl, George  
Pratt, John

Fish, Douglas  
Manning, Joseph  
Royce, H Charles

**COOS**

Brady, Mark  
Pratt, Leighton  
Woodward, David

Guay, Lawrence  
Richardson, Herbert

King, Frederick  
Stohl, Eric

Mears, Edgar  
Tholl, John Jr

**GRAFTON**

Akins, Ralph  
Cooney, Mary  
Gilman, G Michael  
Ingbertson, Paul  
Scovner, Nancy  
Williams, Burton

Alger, John  
Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie  
Sokol, Hilda

Almy, Susan  
Dudley, Terri  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Eaton, Stephanie  
Hammond, Lee  
Nordgren, Sharon  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Carter, Mark  
Cote, David  
Dionne, Kimberley  
Emerton, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Hansen, Ryan  
Hinkle, Peyton

Allan, Nelson  
Balcom, John  
Bergin, Peter  
Buhlman, David  
Cernota, Albert  
Cote, Peter  
Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Hagan, Barbara  
Harrington, Paul  
Holden, Randolph

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Carlson, Donald  
Chabot, Robert  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Hall, Charles  
Hawkins, Ken  
Hopper, Gary

Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Desmarais, Vivian  
Elliott, Larry  
Ford, Nancy  
Graham, John  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William

Irwin, Anne-Marie  
Kopka, Angeline  
LaFlamme, Paul  
Martin, Mary Ellen  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Slocum, Lee  
Sweeney, Cynthia  
Wheeler, James

Jasper, Shawn  
Kurk, Neal  
Leach, Edward  
McHugh, Claire  
Mooney, Maureen  
Ober, Russell III  
Reeves, Sandra  
Souza, Kathleen  
Tahir, Saghir  
Wheeler, Robert

Jean, Claudette  
L'Heureux, Robert  
Lefebvre, Roland  
McRae, Karen  
Moran, Edward  
Pepino, Leo  
Rowe, Robert  
Spiess, Paul  
Tate, Joan

Johnson, Lionel  
Laflamme, Charles  
Luebker, Bernard  
Mercer, Robert  
Mosher, William  
Pilotte, Maurice  
Scanlon, Michael  
Stepanek, Stephen  
Vaillancourt, Steve

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom  
Owen, Derek

Blanchard, Elizabeth  
Currier, David  
Field, William  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward  
Reed, Dennis

Bouchard, Candace  
Daniels, Eric  
Foley, Albert  
Jacobson, Alf  
Langer, Ray  
Marple, Richard  
Oliver, James  
Soltani, Tony

Brueggemann, Donald  
DeJoie, John  
Fraser, Leo Jr  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Osborne, Jessie  
Wallner, Mary Jane

### ROCKINGHAM

Belanger, Ronald  
Bridle, Russell  
Coes, Betsy  
Duffy, James  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Moore, Benjamin  
O'Neil, Michael  
Robertson, Carl  
Smith, Paul  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

Bicknell, Elbert  
Camm, Kevin  
Cooney, Richard  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McEachern, Paul  
Morris, Richard  
Putnam, Ed II  
Roessner, Kurt  
Splaine, James  
Waterhouse, Kevin  
Weyler, Kenneth

Bishop, Franklin  
Carson, Sharon  
DiFruscia, Anthony  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McKinney, Betsy  
Norelli, Terie  
Quandt, Matthew  
Ruffner, Walter  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

Blanchard, MaryAnn  
Clark, Vivian  
Dodge, Robert  
Flanders, John Sr  
Gleason, John  
Headd, James  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
Manning, John  
McMahon, Charles  
Noyes, Richard  
Rausch, James  
Smith, Donald  
Tufts, J Arthur  
Welch, David  
Winchell, George

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Harrington, Michael  
Miller, Joseph  
Smith, Marjorie  
Wall, Janet

Bemis, Alan  
Creteau, Irene  
Heon, Richard  
Musler, George  
Taylor, Kathleen  
Woods, Phyllis

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Pelletier, Arthur  
Twombly, James

Campbell, W Packy  
Easson, Timothy  
Kaen, Naida  
Scott, David  
Vachon, Dennis

### SULLIVAN

Burling, Peter  
Harris, Joseph  
Phinizz, James  
and floor amendment (0102h) failed.  
Rep. Buckley offered a floor amendment (0103h).

Ferland, Brenda  
Jones, Constance

Flint, Gordon Sr  
Leone, Richard

### Floor Amendment (0103h)

Amend RSA 662:5, VII as inserted by section 1 of the bill by replacing it with the following:

## VII. Merrimack County

District No. 1	Danbury	
	New London	
	Wilmot	2
District No. 2	Franklin Wards 1-3	
	Hill	3
District No. 3	Newbury	
	Sutton	1
District No. 4	Hopkinton	
	Warner	
	Webster	3
District No. 5	Bradford	
	Henniker	2
District No. 6	Andover	
	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
	Salisbury	6
District No. 7	Chichester	
	Pembroke	3
District No. 8	Allenstown	
	Epsom	
	Hooksett	
	Pittsfield	8
District No. 9	Concord Wards 1, 2, and 3	4
District No. 10	Concord Wards 4, 8, 9, and 10	5
District No. 11	Concord Wards 5, 6, and 7	4
District No. 12	Bow	
	Dunbarton	3

Rep. Buckley spoke in favor and yielded to questions.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0103h).

**YEAS 26 NAYS 324****YEAS 26  
BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

Allen, Peter

Meador, David

Richardson, Barbara

Robertson, Timothy

**COOS**

Woodward, David

**GRAFTON**

Solomon, Peter

**HILLSBOROUGH**

Adams, Jarvis  
Lasky, Bette

Clemons, Jane

Craig, James

Gorman, Mary

**MERRIMACK**

Anderson, Eric  
Leber, William

DeStefano, Stephen  
Owen, Derek

French, Barbara  
Potter, Frances

Hamm, Christine

**ROCKINGHAM**

Cady, Harriet

Casey, Kimberley

Coes, Betsy

**STRAFFORD**Berube, Roger  
Knowles, William

Callaghan, Frank

Creteau, Irene

Grassie, Anne

**SULLIVAN**

None

**NAYS 324****BELKNAP**Ahern, Omer Jr  
Clark, Charles  
Holbrook, Robert  
Rice, ThomasAllen, Janet  
Dewhirst, Glenn  
Lawton, David  
Russell, DavidBartlett, Gordon  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, FranBoyce, Laurie  
Flanders, Donald  
Pilliod, James  
Whalley, Michael**CARROLL**Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, StanleyBrown, Carolyn  
Kenney, Bettie  
Olimpio, J LisbethDerby, Mark  
McConkey, Mark  
Patten, BetseyDickinson, Howard  
Morrow, Harry  
Philbrick, Donald**CHESHIRE**Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, John  
Tilton, AnnaDunn, James  
Hunt, John  
Mitchell, McKim  
Royce, H Charles  
Weed, CharlesEaton, Daniel  
Laurent, John  
Parkhurst, Henry  
Slack, PamelaEspieffs, Peter  
Liebl, George  
Pratt, Irene  
Smith, Edwin**COOS**Brady, Mark  
Pratt, Leighton  
Tholl, John JrGuay, Lawrence  
Richardson, HerbertKing, Frederick  
Stohl, EricMears, Edgar  
Theberge, Robert**GRAFTON**Akins, Ralph  
Bleyler, Ruth  
Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie  
Sokol, HildaAlger, John  
Cooney, Mary  
Dudley, Terri  
Giuda, Robert  
Naro, Debra  
Sorg, GregoryAmy, Susan  
Densmore, Edward  
Eaton, Stephanie  
Hammond, Lee  
Nordgren, Sharon  
Williams, BurtonBenn, Bernard  
Diamond, Estelle  
Gilman, G Michael  
Ingretson, Paul  
Scovner, Nancy**HILLSBOROUGH**Allan, Nelson  
Balcom, John  
Bergin, Peter  
Bruno, Pierre  
Carter, Jeffrey  
Christensen, D L Chris  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Haley, Robert  
Harrington, Paul  
Holden, Randolph  
Jasper, Shawn  
Kopka, Angeline  
LaFlamme, PaulArnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Buckley, Raymond  
Carter, Mark  
Clayton, William  
Desmarais, Vivian  
Elliott, Larry  
Ford, Nancy  
Graham, John  
Hall, Charles  
Hawkins, Ken  
Hopper, Gary  
Jean, Claudette  
Kurk, Neal  
Leach, EdwardArtz, Lawrence  
Batula, Peter  
Brassard, Paul  
Buhlman, David  
Cernota, Albert  
Cote, David  
Dionne, Kimberley  
Emerton, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William  
Johnson, Lionel  
L'Heureux, Robert  
Lefebvre, RolandBalboni, Michael  
Beaton, William  
Brundige, Robert  
Carlson, Donald  
Chabot, Robert  
Cote, Peter  
Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Hagan, Barbara  
Hansen, Ryan  
Hinkle, Peyton  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
Laflamme, Charles  
Luebker, Bernard



Malloy, Chris  
 Mercer, Robert  
 Mosher, William  
 Pappas, Christopher  
 Reeves, Sandra  
 Shaw, Barbara  
 Stepanek, Stephen  
 Tahir, Saghir  
 Wheeler, Robert

Martin, Mary Ellen  
 Messier, Irene  
 Movsesian, Lori  
 Pepino, Leo  
 Rowe, Robert  
 Slocum, Lee  
 Sullivan, Francis  
 Tate, Joan

McHugh, Claire  
 Mooney, Maureen  
 O'Brien, Lori  
 Pilotte, Maurice  
 Scanlon, Michael  
 Souza, Kathleen  
 Sullivan, Peter  
 Vaillancourt, Steve

McRae, Karen  
 Moran, Edward  
 Ober, Russell III  
 Price, Pamela  
 Schulze, Joan  
 Spiess, Paul  
 Sweeney, Cynthia  
 Wheeler, James

### MERRIMACK

Blanchard, Elizabeth  
 Currier, David  
 Dunne, Christopher  
 Gile, Mary  
 Kenison, Leon  
 Lockwood, Priscilla  
 McCormick, Tom  
 Perkins, Randy  
 Seldin, Gloria

Bouchard, Candace  
 Daniels, Eric  
 Field, William  
 Hager, Elizabeth  
 Kennedy, Richard  
 MacKay, James  
 Nutter, Edward  
 Reardon, Tara  
 Soltani, Tony

Brueggemann, Donald  
 Davis, Frank  
 Foley, Albert  
 Hess, David  
 L'Heureux, Stephen  
 Marple, Richard  
 Oliver, James  
 Reed, Dennis  
 Wallner, Mary Jane

Clarke, Claire  
 DeJoie, John  
 Fraser, Leo Jr  
 Jacobson, Alf  
 Langer, Ray  
 Maxfield, Roy  
 Osborne, Jessie  
 Rush, Deanna

### ROCKINGHAM

Belanger, Ronald  
 Bridle, Russell  
 Cooney, Richard  
 Duffy, James  
 Francoeur, Sheila  
 Gould, Kenneth  
 Holland, James Jr  
 Itse, Daniel  
 Katsakiores, Phyllis  
 Langone, John  
 McCann, Richard  
 Moore, Benjamin  
 O'Neil, Michael  
 Rausch, James  
 Shultis, Elizabeth  
 Stone, Joseph  
 Waterhouse, Kevin  
 Weyler, Kenneth

Bicknell, Elbert  
 Camm, Kevin  
 Corbin, Corey  
 Dumaine, Dudley  
 Gilbert, Jeffrey  
 Griffin, Mary  
 Hughes, Daniel  
 Johnson, Robert  
 Kelley, Jane  
 Letourneau, Robert  
 McEachern, Paul  
 Morris, Richard  
 Pitts, Jacqueline  
 Robertson, Carl  
 Smith, Donald  
 Tufts, J Arthur  
 Weare, E Albert  
 Wiley, Robert

Bishop, Franklin  
 Carson, Sharon  
 DiFruscia, Anthony  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Ingram, Russell  
 Johnson, Rogers  
 Kobel, Rudolph  
 Major, Norman  
 McKinney, Betsy  
 Norelli, Terie  
 Putnam, Ed II  
 Roessner, Kurt  
 Smith, Paul  
 Vallone, Matthew  
 Welch, David  
 Winchell, George

Blanchard, MaryAnn  
 Clark, Vivian  
 Dodge, Robert  
 Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Introne, Robert  
 Katsakiores, George  
 Langley, Jane  
 Manning, John  
 McMahon, Charles  
 Noyes, Richard  
 Quandt, Matthew  
 Ruffner, Walter  
 Splaine, James  
 Varrell, Thomas  
 Weldy, Norman Jr  
 Zolla, William

### STRAFFORD

Albert, Russell  
 Campbell, W Packy  
 Harrington, Michael  
 Kaen, Naida  
 Pelletier, Arthur  
 Smith, Marjorie  
 Twombly, James

Bemis, Alan  
 Cataldo, Sam  
 Heon, Richard  
 Miller, Joseph  
 Rous, Emma  
 Spang, Judith  
 Vachon, Dennis

Bickford, David  
 Dunlap, Patricia  
 Hofemann, Roland  
 Musler, George  
 Schmidt, Peter  
 Taylor, Katherine  
 Wall, Janet

Brown, Julie  
 Easson, Timothy  
 Johnson, Nancy  
 Newton, Clifford  
 Scott, David  
 Taylor, Kathleen  
 Woods, Phyllis

### SULLIVAN

Allison, David  
 Ferland, Brenda  
 Harris, Sandra  
 Rodeschin, Beverly

Burling, Peter  
 Flint, Gordon Sr  
 Jones, Constance

Cloutier, John  
 Franklin, Peter  
 Leone, Richard

Donovan, Thomas  
 Harris, Joseph  
 Phinizy, James

and floor amendment (0103h) failed.

The question now being adoption of the majority committee report as amended.

Rep. Burling spoke against and yielded to questions.

Rep. Giuda requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report as amended.

## YEAS 231 NAYS 119

### YEAS 231

#### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Nedeau, Stephen  
Wendelboe, Fran

Allen, Janet  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

Bartlett, Gordon  
Holbrook, Robert  
Rice, Thomas

Boyce, Laurie  
Lawton, David  
Russell, David

#### CARROLL

Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, Stanley

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Merrow, Harry  
Philbrick, Donald

#### CHESHIRE

Dexter, Judson  
Liebl, George

Fish, Douglas  
Manning, Joseph

Hunt, John  
Royce, H Charles

Laurent, John  
Smith, Edwin

#### COOS

Brady, Mark  
Richardson, Herbert

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

#### GRAFTON

Akins, Ralph  
Eaton, Stephanie  
Ingretson, Paul  
Sorg, Gregory

Alger, John  
Gilman, G Michael  
Maybeck, Margie  
Williams, Burton

Dorsett, Andrew  
Gionet, Edmond  
Naro, Debra

Dudley, Terri  
Giuda, Robert  
Solomon, Peter

#### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Beaton, William  
Brundige, Robert  
Carter, Mark  
Clemons, Jane  
Dokmo, Cynthia  
Fields, Dennis  
Gonzalez, Carlos  
Hall, Charles  
Hawkins, Ken  
Hopper, Gary  
L'Heureux, Robert  
Luebckert, Bernard  
Moran, Edward  
Pepino, Leo  
Scanlon, Michael  
Stepanek, Stephen  
Wheeler, James

Allan, Nelson  
Balcom, John  
Bergin, Peter  
Bruno, Pierre  
Cernota, Albert  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Graham, John  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William  
Lafamme, Charles  
McHugh, Claire  
Mosher, William  
Price, Pamela  
Slocum, Lee  
Tahir, Saghir  
Wheeler, Robert

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Buhlman, David  
Chabot, Robert  
Desmarais, Vivian  
Elliott, Larry  
Ford, Nancy  
Greenberg, Gary  
Hansen, Ryan  
Hinkle, Peyton  
Jasper, Shawn  
LaFlamme, Paul  
McRae, Karen  
O'Brien, Lori  
Reeves, Sandra  
Souza, Kathleen  
Tate, Joan

Artz, Lawrence  
Batula, Peter  
Brassard, Paul  
Carter, Jeffrey  
Christensen, D L Chris  
Dionne, Kimberley  
Emerton, Larry  
Gargas, Carolyn  
Hagan, Barbara  
Harrington, Paul  
Holden, Randolph  
Kurk, Neal  
Lasky, Bette  
Mercer, Robert  
Ober, Russell III  
Rowe, Robert  
Spiess, Paul  
Vaillancourt, Steve

#### MERRIMACK

Anderson, Eric  
Field, William  
Hess, David

Currier, David  
Foley, Albert  
Jacobson, Alf

Daniels, Eric  
Fraser, Leo Jr  
Kenison, Leon

Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard

L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Langer, Ray  
Marple, Richard  
Oliver, James

Leber, William  
Maxfield, Roy  
Reed, Dennis

Lockwood, Priscilla  
McCormick, Tom

### ROCKINGHAM

Belanger, Ronald  
Cady, Harriet  
Cooney, Richard  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McKinney, Betsy  
O'Neil, Michael  
Ruffner, Walter  
Tufts, J Arthur  
Weldy, Norman Jr

Bicknell, Elbert  
Camm, Kevin  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McMahon, Charles  
Putnam, Ed II  
Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

Bishop, Franklin  
Carson, Sharon  
DiFruscia, Anthony  
Flanders, John Sr  
Gleason, John  
Headd, James  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
Manning, John  
Moore, Benjamin  
Rausch, James  
Smith, Paul  
Weare, E Albert  
Wiley, Robert

Bridle, Russell  
Clark, Vivian  
Dodge, Robert  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Noyes, Richard  
Roessner, Kurt  
Stone, Joseph  
Welch, David  
Winchell, George

### STRAFFORD

Albert, Russell  
Campbell, W Packy  
Harrington, Michael  
Scott, David

Bemis, Alan  
Cataldo, Sam  
Heon, Richard  
Twombly, James

Berube, Roger  
Dunlap, Patricia  
Musler, George  
Woods, Phyllis

Brown, Julie  
Easson, Timothy  
Newton, Clifford

### SULLIVAN

Donovan, Thomas

Rodeschin, Beverly

### NAYS 119

### BELKNAP

Dewhirst, Glenn

Fitzgerald, James

### CARROLL

None

### CHESHIRE

Allen, Peter  
Meador, David  
Pratt, John  
Tilton, Anna

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy

Espiefs, Peter  
Pratt, Irene  
Slack, Pamela

### COOS

Mears, Edgar

Theberge, Robert

### GRAFTON

Almy, Susan  
Densmore, Edward  
Scovner, Nancy

Benn, Bernard  
Diamond, Estelle  
Sokol, Hilda

Bleyler, Ruth  
Hammond, Lee

Cooney, Mary  
Nordgren, Sharon

### HILLSBOROUGH

Baroody, Benjamin  
Cote, David  
Gorman, Mary  
Johnson, Lionel  
Malloy, Chris  
Movsesian, Lori  
Shaw, Barbara

Buckley, Raymond  
Cote, Peter  
Haley, Robert  
Katsiantonis, Thomas  
Martin, Mary Ellen  
Pappas, Christopher  
Sullivan, Francis

Carison, Donald  
Craig, James  
Irwin, Anne-Marie  
Kopka, Angeline  
Messier, Irene  
Pilotte, Maurice  
Sullivan, Peter

Clayton, William  
Gibson, John  
Jean, Claudette  
Lefebvre, Roland  
Mooney, Maureen  
Schulze, Joan  
Sweeney, Cynthia

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	French, Barbara
Gile, Mary	Hamm, Christine	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Reardon, Tara	Rush, Deanna
Seldin, Gloria	Soltani, Tony	Wallner, Mary Jane	

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Corbin, Corey
Duffy, James	McEachern, Paul	Morris, Richard	Norelli, Terie
Pitts, Jacqueline	Quandt, Matthew	Robertson, Carl	Shultis, Elizabeth
Splaine, James	Vallone, Matthew	Varrell, Thomas	Zolla, William

**STRAFFORD**

Callaghan, Frank	Creteau, Irene	Grassie, Anne	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Knowles, William	Miller, Joseph
Pelletier, Arthur	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis
Wall, Janet			

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Harris, Joseph	Harris, Sandra
Jones, Constance	Leone, Richard	Phinizy, James	

and the majority committee report as amended was adopted.  
Ordered to third reading.

**MOTION TO PRINT REMARKS**

Rep. Phinizy moved that the debate on **HB 264**, establishing state representative districts, be printed in the Permanent Journal.

On a division vote, 184 members having voted in the affirmative and 166 in the negative, the motion was adopted.

**DEBATE ON HB 264****Debate on floor amendment (0036h)**

Rep. Whalley: Thank you, Mr. Speaker. Mr. Speaker, my floor amendment is virtually the same as the committee amendment with one small change. The effort of the committee was to create smaller districts wherever possible by subdividing the existing districts that we all ran under almost two years ago. The other change the committee has made is that we have renumbered the districts by county, which is the way we are most familiar with that and that is how it will be reflected in statutes. So when we come to register, if we file again to run for re-election, we will run from our county and a district number. But the small change in my floor amendment to the committee amendment is one in Cheshire County. It is one that we overlooked as a committee, but it certainly follows the parameters that we established in having as many smaller districts as possible. If you will look on page 198 under Cheshire County, you will see that there is District 1 and District 2. In the committee amendment those ten towns form a district and that is what is existing today. In my floor amendment I have subdivided Gilsum, Surry and Westmoreland from the other seven remaining towns. There would be one seat for the three towns I just mentioned. There would be three seats for the seven remaining towns, thereby creating another district which would bring us from the 88 districts that we know presently to 98 districts that you would find in the floor amendment. Thank you, Mr. Speaker.

Rep. Berube: Mr. Speaker, honorable members of the House, I rise in favor and support of HB 264. The reason for it is, I think it's the right thing to do. If we look at the numbers, for instance, District 67, I represent the City of Rochester, the City of Somersworth and the Town of Rollinsford, which is almost 40,000 people. It makes it very difficult, very difficult to represent that many people. If we believe in direct representation in this House which a majority of the people do, then

I ask that you support this piece of legislation. There was a lot of work done, I've attended the committee meetings, I gave testimony. Some people may be in disagreement but I would like to point out that when the courts, their reason for creating such a large district, such as District 67, was that the boundaries were not set up properly. So, I urge all of you to support this legislation. I would like to thank you, and thank you, Mr. Speaker.

### **Debate on floor amendment (0099h)**

Rep. Buckley: Thank you, Mr. Speaker. During this morning's prayer, I was doing an extra prayer. I was praying that God would bless me with the ability that the chair of the Judiciary Committee has to explain in some pithy way something that is very complicated and difficult for the House to understand in a way to clarify it in a manner that makes it so simple those who aren't really listening get it. Unfortunately, He hasn't answered my call yet, so please bear with me. I authored this amendment along with the other four, as a way of subdividing HB 264. HB 264 could not have been divided.

I want to first start off by setting aside the issue whether or not you believe that we should actually even be dealing with the issue of redistricting. You are going to hear that later on in this debate. So let's set aside the issue of whether or not we should be dealing with redistricting and whether it's even constitutional.

Why I subdivided HB 264 into five amendments was so that we could actually have specific votes on specific districts. The point is we could not divide, we could not have a vote in any other way. So simply what happened is we took the bill apart, and made it into separate amendments. The amendments are exactly the same as the what the committee amendment said. So in an attempt to not complicate things, it in a round-about way made it even more complicated.

The point is, there are some people who so strongly oppose the specific in some of these changes that they wanted to have a specific vote. As luck would have it, the first vote we have is the most egregious. Now, just a few moments ago we took a vote on the committee amendment that the Deputy Speaker moved. What was interesting about that is that there was no actual committee action on that, that was not part of the package that we discussed for the months that we were here this fall working on it. What happened is a member of this House ran into the sponsor of the amendment and had a casual conversation. That is essentially how this whole process on "re-redistricting" has worked. It has been a very frustrating process where there were specific districts for specific purposes that people wanted to have divided. We did not do a comprehensive statewide assessment of how these districts worked. Once again, set aside the issue of whether or not we should even be involved in redistricting but what we have before us is a very arbitrary piece-meal redistricting process.

But there was one guiding theory that was supposed to have governed the committee action. That's what the majority voted on in this amendment 0099 with HB 264 and why I think it is so critical that this be specifically a roll call vote, Mr. Speaker. I am going to ask for a roll call on this. In no other section of HB 264 does the committee amendment specifically target a sitting member of the House. One of the things we heard over and over again at every hearing and at every meeting throughout the fall is that if we are going to try to fix this let's make sure that we do not disrupt the incumbent members. So we bent over backwards, we even set aside some districts, the committee did, because this person or that person would not be able to get reelected because they would be eliminated. What happens in 0099 is in Grafton County, it takes 5 members who represent one town and creates a four member district. So five members who represent a certain area are now being replaced by four. So we are essentially eliminating a member of this body, even though that was supposed to be one of our guiding theories as we looked at this piece-meal process, that let's not go after any incumbent member of this House. Some people did not think that was an appropriate guideline to have but that was something we had reached some consensus on in committee. So, Mr. Speaker, I stand here with the confusing motion of, "I offer this amendment but I urge the House to vote 'no'", in an effort to communicate to our constituents, to the people of New Hampshire and, hopefully, to the committee that we object to what occurs in 0099. So I want to urge you to vote "NO."

Rep. Whalley: Thank you, Mr. Speaker. I must suggest to you that I am confused.

Speaker Chandler: I offer this help to you just in case other people are. Rep. Buckley offered floor amendment (0099h) and has urged members to vote in opposition to that and spoke in opposition.

Rep. Whalley: And I will ask a parliamentary inquiry of the chair when I finish. But I need to address a couple of things. Number one when we went through this last fall we really put months of work into this. We had real consensus within our committee as to how we should approach this and that was to establish smaller districts as best as we can without the use of floterials. Although we were certainly concerned that we didn't create a musical chair situation, that was not one of the conditions of what we did. In fact, if Rep. J.D.Colcord had not resigned to run for county commissioner in Merrimack County, he, as a Republican, would have tripped us into a situation where we would have potentially had incumbents running against incumbents in another district and at this moment and time, because we didn't pay enough attention to that, I can't even tell you if we would have had Republicans running against Republicans or not. But I can suggest to you that there have been three additional redistricting bills heard before the Election Law Committee and you may see me back here again or you may see others and we may be proposing to you again to subdivide some existing districts with the proper deviation and it may impact members of one party or another. Although I'm the first to admit I would not like to create districts that would force incumbents to run against incumbents. The most important principle that our committee adopted in its look at HB 264 was to create smaller districts and to bring the representation closer to the people of New Hampshire and we always put the people of New Hampshire first and not the incumbents that are sitting in this House even if it impacted some of us who are on the Election Law Committee.

The other thing I would like to suggest to you is this was not a request of a member of the chair of the Election Law Committee, temporary acting as I may be. It was a situation where somebody brought to light something that we had overlooked and we had a committee caucus, I guess I would call it, we polled the committee, it was an 11 to 3 vote to support this particular amendment and that is why we are here today with the Whalley floor amendment. It follows the trend and the established parameters that this committee followed in the fall. It does not deviate from that one bit and when I finish if there are no questions I would like to make a parliamentary inquiry.

#### **Debate on floor amendment (0101h)**

Rep. Buckley: Thank you, Mr. Speaker and members of the House. I would once again apologize for having to go through this process and just remind the House that we were told that HB 264 could not be divided, so we could not have separate bills on the separate components of the committee amendment to HB 264. So I apologize for the vast confusion on this but it is a way of creating a record, it is a way of people being able to have their votes heard. At this time, I would like to move adoption of floor amendment (0101h). I am still waiting for God to give me Rep. Mock's ability to explain the difficult in the most simplistic terms. Once again, setting aside the issue of whether or not it is even constitutional or appropriate for us to redistrict in a piece meal manner and also in an annual manner. This particular issue specifically deals with the redistricting of the City of Manchester which the Manchester delegation supports. So I would encourage a "yes" vote on this.

Rep. Whalley: Just to be consistent, I would urge you all to vote "no". Thank you, Mr. Speaker.

#### **Debate on floor amendment (0102h)**

Rep. Buckley: Thank you, Mr. Speaker. I think if there was any one district that created heartache last year when we saw the report from the Supreme Court, it was that district over in Strafford County. There is great consensus that something needs to be done to divide that 14 member district that currently includes the entire City of Rochester, Rollinsford and Somersworth. Although once again, setting aside of the issue whether or not we should even be doing redistricting, I do wish to be recorded in favor of this particular component and Mr. Speaker, I encourage the House to vote "yes."

#### **Debate on floor amendment (0103h)**

Rep. Buckley: Thank you, Mr. Speaker. In lieu of the member from Epsom's question, I want to begin once again with the explanation. The reason we are in this very complicated situation is because the committee amendment to 264 cannot be divided. Specific members of the House wanted a specific vote on a piece. The only way parliamentarily, that we could find a way to allow those members to either vote "yes" or "no" and then a "yes" or "no" on the final passage of 264 as amended, was to come forward with separate amendments, piece by piece, because we could not divide, it was melded together because of the renumbering and redistricting. So it was very complicated, but for those who wish to have a vote on record in favor or opposed to a specific portion of this, that's why this is coming up piece by piece.

Mr. Speaker, I rise in opposition to the amendment I have offered, amendment (0103h) and I think it goes without saying, that for many of us we found this particular piece not something we could support and we wished the committee had divided, subdivided up the districts in a more appropriate manner. So I wish to be recorded in opposition to this specific piece. I encourage the House to vote "no" on the passage of amendment (0103h).

Rep. Vaillancourt: Thank you, Mr. Chairman. This whole thing is an exercise in futility it seems to me, but you've mentioned that this was the only way it could be done. Is it not true, however, that back on the Hanover section of the bill you could have introduced your amendment which would have kept Hanover and the towns together, therefore it would have offered a clear difference to the committee proposal. Then we would have had something to vote on that was a differentiation, whereas now we don't have that? Could you not have done that?

Rep. Buckley: Well, my colleague from Manchester, you certainly know that I've got about six file drawers full of redistricting information. I could have brought up enough information to keep us here until next New Years. In a manner of making it as simplistic and as easy as possible where members of this House requested the ability to vote "yes" or "no" on specific portions of the committee amendment, this was the cleanest and easiest way. Instead of trying to replace it and trying to make it more complicated where people would sit there with their calculators trying to figure out the deviation, trying to figure out how does it affect this person, how does it affect that person; we simply wanted a vote recorded in favor or in opposition to specific pieces of the committee amendment to House Bill 264 and this was the only way we felt was available in a cleaner way instead of bringing forward very complicated, we understand the House does not wish to debate redistricting on and on, we just simply wanted to be able to have an up or down vote on specific pieces to the committee amendment to HB 264.

Speaker Chandler: Rep. Vaillancourt has a question of Rep. Buckley.

Rep. Vaillancourt: No, it's of you, Mr. Speaker. I realize that every member has a right to propose amendments but I would ask that since these amendments are already part of the amendment that is already passed and that nothing can change of this, that the Speaker would be entitled to rule that amendments which simply affirm a part of another amendment are out of order.

Speaker Chandler: You are absolutely correct and had I realized we were going to enter this process, I probably would have done that. However, we were under the impression that only one amendment was going to be adopted and then the others came along. Where that mistake arose I'm not sure so there was just going to be an effort to deal with the first one and that was it. Then it was decided.... So we kind of got into the middle of the game... so here we are at the end of the game. Your thought is duly noted.

### **Debate on adoption of majority report.**

Rep. Burling: Thank you, Mr. Speaker. Let me apologize at the start, my colleagues, I have the head cold from hell and I'm going to try and get this clear and clean, but frankly there's a lot of fuzziness going on. There are a couple of points I want to make. Believe it or not, in a legislature like ours there are two broad, and maybe more than two, broad views or opinions, and we work back and forth, majority leadership and minority leadership trying to get a clear record so our people can have a chance to vote as best they can. That's what we've been about so far. I wanted to give the membership of the minority caucus a chance to vote clearly on their preferences. When, if you care, you look at my record, you'll see that I have voted "no" on each of the votes to this point and I do so for a very important reason. I believe, and I can say this with an absolutely clear frame of mind, that everything that we have done to this point on this bill is unconstitutional. I believe that when the appropriate review takes place on the passage of this bill, and I have every reason to expect that you're going to pass it, you have an overwhelming majority and you intend to do this; but when that action is reviewed at the appropriate time and place, people will look to our founding document and they will say "This doesn't pass muster." Why does it not pass muster? It doesn't pass muster because our constitution speaks of decennial redistricting. We do it once every decade. If this bill passes and becomes law, we will have adopted a dramatic, and I would submit very anxiety provoking, new standard. That standard will be that the majority of this House, whoever that may be, will have the power to redistrict every year. I ask you to just think about that for a minute. It is the kind of concern that the minority leader would focus on. But you know something, it is the kind of concern that everybody else in this legislature ought to focus on, too. Because political fracture lines do not always follow the Democrat, Republican, Libertarian dis-

inction. If it is possible that a majority of this House can redistrict this House every year, then it's also possible to think of a circumstance in which some subgroup of the majority party will have taken a position so unpopular with its majority leadership, that the majority leadership may say in a moment of anger, "Listen, you either toe the mark on this or we're going to find some new district lines." Anybody familiar with our history as a nation knows that that's what used to go on early in our history when redistricting did in fact take place every year and sometimes even in a fragment of a year when the majority leadership decided that it had a need to get rid of somebody or a need to get somebody else in. Let me talk about the prospect of getting somebody else in. This is the first redistricting effort that I've been familiar with in which a clear effort is underway to substitute somebody who isn't in here for somebody who is in here. District 17 is a personal effort. It is about somebody who is not here. I think it is wrong to do redistricting that way. I think it's a mistake. I think it ought to tell each and every one of you who's a member of the majority party that when you wake up one morning at 2:30 having a nightmare about your legislative future in the New Hampshire House, you ought to remember that on this day a step was taken that established the principle that you can redistrict for the purpose of substituting reps. It's not a good idea. Redistricting, as difficult, as cumbersome, and as brutal a process as it is, and I think it's all those things, is a process which ought to serve a higher purpose. The purpose ought to be to give the citizens of this state the best possible series of districts, so that the best possible result reflecting their votes can appear in the membership of the House. Put simply, it ought to be about fundamental fairness and direct competition over opposing ideas and ideologies. If we change the standard, and if we go to an annual redistricting proposal which is what passage of this bill will create, we'll be making a big mistake and we will regret it at some point in the future. How many of us will find our way out of this institution before we regret it, I can't tell you. But it is a serious concern on my part. I make this argument, I hope and pray that some of you have heard what I've had to say. I have no doubt about your power to do it, but the power you're about to exercise, I'll say it one more time and then I'll take questions, is a power to do to each other. As the minority party since 1857, you all remember my comment about we lost the majority because that man backed the extension of slavery to the Kansas territories, what you're about to do to each other is create the power to bump each other out of this legislature year in and year out. I think if you really think about that, you won't be thrilled with the prospect. I thank you, Mr. Speaker. I particularly thank you, Mr. Speaker, for allowing us the privilege of trying to get our votes clear on the record. I know it was cumbersome. We would have preferred a bill that was subdivisible so that we could have had our individual votes but we were not given that opportunity.

Rep. Hagan: Thank you, Mr. Speaker. Thank you, Representative for taking my question.

Rep. Burling: My pleasure.

Rep. Hagan: I'm new in this chamber and so I just want to understand your explanation of our setting a precedent to do a redistricting vote. It is my understanding that the last redistricting was done by the court of this state. So I'm just wondering if this vote by the legislature is now our opportunity to set the record straight as to how the people would like to see the districts be formed?

Rep. Burling: Well, Ma'am, I will say that I think that is an argument and it is an argument that I'm sure I will hear made at the right forum. My answer to it is: what happened last year was essentially a default exercise of a legislative function. I don't want to go through the bad feelings and rancor that last year's redistricting effort generated. The fact of the matter is that ultimately the court, in order to get a redistricting plan in place that met the deviation requirements of our own constitution, exercised our power. I believe in so doing they simply substituted themselves for us. I don't think that changes the New Hampshire Constitution's requirement that redistricting take place once a decade. In making that argument, I would simply like to point out, if this happens, this bill becomes law, in the year 2004 we will have made a substantive redistricting of the State of New Hampshire for the second time in the decade based on numbers that were taken in 2000. Some of them were actually numbers taken in 1999. Those numbers are midway through the process of change and I think it's a mistake to keep doing this. Thank you for your question.

Rep. Hagan: I just have a follow-up question. I'm sorry and again I'm new and so I'm trying to understand this process. Is it not true that this House has on perhaps thirteen other occasions taken an opportunity to have a redistricting vote?

Rep. Burling: I believe the answer to your question is, "Yes, but..." I believe the history of redistricting voting in this state would show that from time to time the legislature has moved bound-



aries or made other truly minor adjustments to individual districts. This is a redistricting bill, particularly in its consolidated form 264, which is a comprehensive but incomplete redistricting of the entire state. And it is a redistricting plan in which for the first time we take five incumbents, put them in a district where only four can run again, and we substantially readjust the power of the majority party relative to the minority party. I don't believe that's a good idea.

Rep. Cady: Rep. Burling, there is probably no one that cares more about our constitution than I do. But the constitution clearly states that the legislature shall redistrict, and the legislature has not redistricted in that ten years. They were not allowed to by a court decision. It further states ...Would you believe that it states that also it will be by the commonality of the towns and the, in the original statements, that those towns would be represented as closely as possible. In fact, do you not know that at one time, the constitution stated every town would have a legislator? So we have not redistrict, have we? The legislature has not redistrict.

Rep. Burling: Representative, I would profoundly disagree as elegantly as I can with you on that point. You and I just utterly disagree about the legal effect and impact of what happened last year. I understand your argument, I expect to see that argument made before the appropriate forum, but I do not agree with it. Thank you for asking it.

Rep. Dickinson: Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the motion of Ought to Pass as Amended on House Bill 264. What we've tried to do in the Election Law Committee is to examine what the court had done. The court had clearly overlooked five or six different districts where they could have made a division and chose not to. Could have made a division and still the parts of which would have been within acceptable deviations. So we had a long conversation within the committee and we agreed that it would make sense to make whatever corrections we could to the court ruling. And the intent was, if we could do this without using floterials and still remain within the accepted deviations thereby creating more districts. And we achieved, with your help this morning, the creation of ten more districts. Now we have just heard from the Honorable Minority Leader that this is a terrible thing to do in "mid-decade," I guess that is the way to put it. But I would like to remind the members and the previous speaker that in the last, well, since 1970, I suppose, we have redistricted midterm or mid-decade five or six times. And in fact, in 1997, the honorable member from Manchester who sits behind the minority leader filed House Bill 374 which sought to redistrict the whole state. I don't know why we are taking such a odd view of this at the moment because what we have tried to do, or why some people are, is tried to improve on what the court did. The court didn't do too bad a job in a way, although I wished they'd used floterials but they didn't. And now we just been able to achieve the creation of ten more districts thereby bringing the whole process a little bit closer to the people. We do not feel that we have crossed any lines and I hope you will support the committee report and the floor amendment, and the motion of Ought to Pass as Amended by pressing the green button at the appropriate time. Thank you.

Rep. Buckley: Thank you, Mr. Speaker. My colleague on Election Law, a two-part question. In fact, those redistricting plans that have come before this House that have passed this House and become enacted law over the last couple decades were they not, in fact, consensus plans that were brought forward together and the reason that they stood is that nobody brought them to the court to question their constitutionality? So to suggest that well, the House has redistricted in the past and so therefore it must be legal, that part of the constitution has never been brought forward. And the second part, not to try to confuse the House even further, my bill that you referenced in 1997 did not change a single physical boundary of a district, it was internal. Is that not true?

Rep. Dickinson: Excuse me, Rep. Buckley, I did not hear the last words you said before you said "Is that not true?"

Rep. Buckley: Thank you, Mr. Speaker. Rep. Dickinson, in an attempt to try to suggest that I have participated in redistricting, you brought forward a bill that I sponsored in 1997. The bill that I sponsored, Rep. Dickinson, in 1997 did not change a single district's physical boundaries. It was an attempt to create one-on-one districts within the single member districts. It's very complicated, we're not going to get into it, but I think it was unfair for you to bring forward to this House information that would in some way confuse the House members that I was attempting to change the boundaries of districts.

Rep. Dickinson: Thank you. All I can say is that to the first part of your question was that it didn't go to court because nobody chose to take it to court. I don't recall, and I don't have the details of every bill, I have merely a summary before me and I don't think that changes my argument at all. Thank you.

**REGULAR CALENDAR (CONT'D.)**

**HB 359**, establishing a procedure for apportioning state senate and representative districts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Howard C. Dickinson for the Majority of Election Law: This bill, as amended, states that redistricting of the House and Senate shall be accomplished by concurrent resolutions developed by each body. The original bill stated that this should be done simply by a Senate and House resolution, but the majority of the committee strongly supports the idea that this should be accomplished by concurrent resolutions, not only because each body is then a check on the other, but also to enable last-minute changes to be made in the second body. The approach is consistent with Articles 9 (second part) and 26 (second part) of the New Hampshire Constitution, which states that the Legislature shall redistrict itself. Vote 9-5.

Rep. James R. Splaine for the Minority of Election Law: The minority believes that each House member has to answer one question before voting on this bill: Do we really need yet another procedure for apportioning state Senate and Representative districts? Even worse, this bill essentially excludes the Executive Branch from redistricting, and that further increases the chances of political games and personal retribution. Why are we doing this to ourselves, and to future Legislatures? Let's be fair to one another, and stop playing an annual game of political paint-by-numbers mapmaking.

**Majority Amendment (2438h)**

Amend the bill by replacing all after the enacting clause with the following:

1 State Senate Districts. RSA 662:3 is repealed and reenacted to read as follows:

662:3 State Senate Districts. The senate shall divide the state into 24 districts for the choosing of state senators, each of which may elect one senator. The districts shall be adopted by senate concurrent resolution, which shall be forwarded by the senate to the secretary of state for implementation at the next biennial election.

2 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:

662:5 State Representative Districts. The house of representatives shall divide the state into districts for the choosing of state representatives, each of which may elect the number of representatives designated by the house for the district. The districts shall be adopted by house concurrent resolution, which shall be forwarded by the house of representatives to the secretary of state for implementation at the next biennial election.

3 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill requires the senate and house of representatives to apportion their districts by resolution. Majority amendment adopted.

Reps. Marjorie Smith and Vaillancourt spoke against.

Reps. Dickinson and Whalley spoke in favor.

Rep. Burling requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 170 NAYS 174****YEAS 170****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Russell, David

Allen, Janet  
Dewhirst, Glenn  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Fitzgerald, James  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Holbrook, Robert  
Rice, Thomas

**CARROLL**

Derby, Mark  
McConkey, Mark  
Stevens, Stanley

Dickinson, Howard  
Merrow, Harry

Hatch, Paul  
Mock, Henry

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Dexter, Judson  
Liebl, George

Fish, Douglas  
Manning, Joseph

Hunt, John  
Royce, H Charles

Laurent, John  
Smith, Edwin

**COOS**

Brady, Mark  
Woodward, David

Pratt, Leighton

Stohl, Eric

Tholl, John Jr

**GRAFTON**

Akins, Ralph  
Dudley, Terri  
Ingbretson, Paul

Alger, John  
Eaton, Stephanie  
Naro, Debra

Barker, Robert  
Gilman, G Michael  
Sorg, Gregory

Dorsett, Andrew  
Giuda, Robert  
Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis  
Batula, Peter  
Buhlman, David  
Elliott, Larry  
Gonzalez, Carlos  
Hawkins, Ken  
Jasper, Shawn  
McHugh, Claire  
O'Brien, Lori  
Slocum, Lee  
Wheeler, Robert

Allan, Nelson  
Beaton, William  
Cernota, Albert  
Emerton, Larry  
Greenberg, Gary  
Haytayan, Harry Jr  
L'Heureux, Robert  
McRae, Karen  
Price, Pamela  
Stepanek, Stephen

Artz, Lawrence  
Brundige, Robert  
Christensen, D L Chris  
Fields, Dennis  
Hansen, Ryan  
Holden, Randolph  
Laflamme, Charles  
Mercer, Robert  
Reeves, Sandra  
Tahir, Saghir

Balboni, Michael  
Bruno, Pierre  
Desmarais, Vivian  
Fletcher, Richard  
Harrington, Paul  
Hopper, Gary  
Luebker, Bernard  
Mooney, Maureen  
Scanlon, Michael  
Wheeler, James

**MERRIMACK**

Anderson, Eric  
Fraser, Leo Jr  
L'Heureux, Stephen  
Maxfield, Roy  
Soltani, Tony

Currier, David  
Hess, David  
Leber, William  
McCormick, Tom

Dunne, Christopher  
Jacobson, Alf  
MacKay, James  
Nutter, Edward

Foley, Albert  
Kennedy, Richard  
Marple, Richard  
Reed, Dennis

**ROCKINGHAM**

Belanger, Ronald  
Camm, Kevin  
Dodge, Robert  
Gilbert, Jeffrey  
Headd, James  
Johnson, Robert  
Kelley, Jane  
Manning, John  
Moore, Benjamin  
Quandt, Matthew  
Smith, Donald  
Waterhouse, Kevin  
Winchell, George

Bicknell, Elbert  
Carson, Sharon  
Fesh, Bob  
Gillick, Thomas  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
McCann, Richard  
Morris, Richard  
Rausch, James  
Stone, Joseph  
Welch, David  
Zolla, William

Bishop, Franklin  
Dalrymple, Janeen  
Flanders, John Sr  
Griffin, Mary  
Introne, Robert  
Katsakiores, George  
Langone, John  
McKinney, Betsy  
Noyes, Richard  
Roessner, Kurt  
Tufts, J Arthur  
Weyler, Kenneth

Bridle, Russell  
DiFruscia, Anthony  
Francoeur, Sheila  
Hamel, Albert  
Itse, Daniel  
Katsakiores, Phyllis  
Major, Norman  
McMahon, Charles  
Putnam, Ed II  
Ruffner, Walter  
Varrell, Thomas  
Wiley, Robert

**STRAFFORD**

Albert, Russell  
Easson, Timothy  
Scott, David

Bemis, Alan  
Harrington, Michael  
Woods, Phyllis

Berube, Roger  
Musler, George

Cataldo, Sam  
Newton, Clifford

**SULLIVAN**

Flint, Gordon Sr

Leone, Richard

Rodeschin, Beverly

**NAYS 174****BELKNAP**

Flanders, Donald

**CARROLL**

Babson, David Jr

Brown, Carolyn

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter  
Meader, David  
Pratt, John  
Tilton, Anna

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy

Espiefs, Peter  
Pratt, Irene  
Slack, Pamela

**COOS**

King, Frederick

Mears, Edgar

Richardson, Herbert

Theberge, Robert

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Maybeck, Margie  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

Bleyler, Ruth  
Gionet, Edmond  
Scovner, Nancy

Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

**HILLSBOROUGH**

Arnold, Thomas Jr  
Bergin, Peter  
Carter, Jeffrey  
Clemons, Jane  
Craig, James  
Gargas, Carolyn  
Hagan, Barbara  
Hinkle, Peyton  
Johnson, Lionel  
LaFiamme, Paul  
Malloy, Chris  
Mosher, William  
Pilotte, Maurice  
Souza, Kathleen  
Sweeney, Cynthia

Balcom, John  
Brassard, Paul  
Carter, Mark  
Cote, David  
Dokmo, Cynthia  
Gibson, John  
Haley, Robert  
Infantine, William  
Katsiantonis, Thomas  
Lasky, Bette  
Martin, Mary Ellen  
Movsesian, Lori  
Rowe, Robert  
Spiess, Paul  
Tate, Joan

Baroody, Benjamin  
Buckley, Raymond  
Chabot, Robert  
Cote, Peter  
Drisko, Richard  
Gorman, Mary  
Hall, Charles  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Messier, Irene  
Ober, Russell III  
Schulze, Joan  
Sullivan, Francis  
Vaillancourt, Steve

Barry, J Gail  
Carlson, Donald  
Clayton, William  
Coughlin, Pamela  
Ford, Nancy  
Graham, John  
Hallyburton, Margaret  
Jean, Claudette  
Kurk, Neal  
Lefebvre, Roland  
Moran, Edward  
Pappas, Christopher  
Shaw, Barbara  
Sullivan, Peter

**MERRIMACK**

Blanchard, Elizabeth  
Daniels, Eric  
Field, William  
Hamm, Christine  
Oliver, James  
Potter, Frances  
Wallner, Mary Jane

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Kenison, Leon  
Osborne, Jessie  
Reardon, Tara

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Langer, Ray  
Owen, Derek  
Rush, Deanna

Clarke, Claire  
DeStefano, Stephen  
Hager, Elizabeth  
Lockwood, Priscilla  
Perkins, Randy  
Seldin, Gloria

**ROCKINGHAM**

Blanchard, MaryAnn  
Coes, Betsy  
Dumaine, Dudley  
Langley, Jane  
Pitts, Jacqueline  
Splaine, James

Cady, Harriet  
Cooney, Richard  
Gleason, John  
Letourneau, Robert  
Robertson, Carl  
Vallone, Matthew

Casey, Kimberley  
Corbin, Corey  
Gould, Kenneth  
McEachern, Paul  
Shultis, Elizabeth  
Weare, E Albert

Clark, Vivian  
Duffy, James  
Hughes, Daniel  
Norelli, Terie  
Smith, Paul

**STRAFFORD**

Bickford, David  
Creteau, Irene  
Hofemann, Roland  
Miller, Joseph  
Spang, Judith  
Vachon, Dennis

Brown, Julie  
Dunlap, Patricia  
Johnson, Nancy  
Rous, Emma  
Taylor, Katherine  
Wall, Janet

Callaghan, Frank  
Grassie, Anne  
Kaen, Naida  
Schmidt, Peter  
Taylor, Kathleen

Campbell, W Packy  
Heon, Richard  
Knowles, William  
Smith, Marjorie  
Twombly, James

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra
Jones, Constance	Phiniza, James		

and the majority committee report failed.  
Rep. Marjorie Smith moved Inexpedient to Legislate.  
Rep. Soltani requested a roll call; sufficiently seconded.

**LAID ON THE TABLE**

Rep. Bruno moved that **HB 359**, establishing a procedure for apportioning state senate and representative districts, be laid on the table and requested a roll call; sufficiently seconded.  
The question being adoption of the motion to lay on the table.

**YEAS 193 NAYS 151****YEAS 193****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Flanders, Donald	Holbrook, Robert	Lawton, David
Nedeau, Stephen	Pilliod, James	Rice, Thomas	Russell, David
Wendelboe, Fran	Whalley, Michael		

**CARROLL**

Brown, Carolyn	Dickinson, Howard	Kenney, Bettie	Morrow, Harry
Mock, Henry	Patten, Betsey	Stevens, Stanley	

**CHESHIRE**

Dexter, Judson	Hunt, John	Liebl, George	Royce, H Charles
Smith, Edwin			

**COOS**

Brady, Mark	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Tholl, John Jr	Woodward, David	

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Giuda, Robert	Ingbretson, Paul
Naro, Debra	Sorg, Gregory	Williams, Burton	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Balcom, John	Batula, Peter	Beaton, William
Brundige, Robert	Bruno, Pierre	Buhlman, David	Carter, Jeffrey
Cernota, Albert	Chabot, Robert	Christensen, D L Chris	Coughlin, Pamela
Desmarais, Vivian	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Gargas, Carolyn	Gonzalez, Carlos
Graham, John	Greenberg, Gary	Hagan, Barbara	Hall, Charles
Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul	Hawkins, Ken
Haytayan, Harry Jr	Hinkle, Peyton	Holden, Randolph	Hopper, Gary
Infantine, William	Jasper, Shawn	Kurk, Neal	L'Heureux, Robert
Laflamme, Charles	LaFlamme, Paul	Luebkert, Bernard	McHugh, Claire
McRae, Karen	Mercer, Robert	Messier, Irene	Mooney, Maureen
Moran, Edward	Mosher, William	O'Brien, Lori	Price, Pamela
Reeves, Sandra	Rowe, Robert	Scanlon, Michael	Slocum, Lee
Spieß, Paul	Stepanek, Stephen	Tahir, Saghir	Tate, Joan
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Currier, David	Dunne, Christopher	Field, William
Foley, Albert	Fraser, Leo Jr	Hager, Elizabeth	Hess, David
Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen	Leber, William
Lockwood, Priscilla	MacKay, James	Marple, Richard	Maxfield, Roy
Nutter, Edward	Soltani, Tony		

**ROCKINGHAM**

Belanger, Ronald	Bicknell, Elbert	Bishop, Franklin	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Dalrymple, Janeen
DiFruscia, Anthony	Dodge, Robert	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey	Gould, Kenneth
Griffin, Mary	Headd, James	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Robert	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kelley, Jane	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Major, Norman	Manning, John
McCann, Richard	McKinney, Betsy	Morris, Richard	Noyes, Richard
Putnam, Ed II	Quandt, Matthew	Rausch, James	Robertson, Carl
Roessner, Kurt	Ruffner, Walter	Smith, Donald	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Varrell, Thomas	Weare, E Albert
Welch, David	Weyler, Kenneth	Wiley, Robert	Winchell, George
Zolla, William			

**STRAFFORD**

Albert, Russell	Bickford, David	Campbell, W Packy	Cataldo, Sam
Dunlap, Patricia	Easson, Timothy	Harrington, Michael	Musler, George
Newton, Clifford	Scott, David	Twombly, James	Woods, Phyllis

**SULLIVAN**

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Rodeschin, Beverly
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**NAYS 151****BELKNAP**

Dewhirst, Glenn	Fitzgerald, James
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**CARROLL**

Babson, David Jr	Derby, Mark	Hatch, Paul	McConkey, Mark
Olimpio, J Lisbeth			

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Laurent, John	Manning, Joseph	Meador, David
Mitchell, McKim	Parkhurst, Henry	Pratt, Irene	Pratt, John
Richardson, Barbara	Robertson, Timothy	Slack, Pamela	Tilton, Anna
Weed, Charles			

**COOS**

Mears, Edgar	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Dorsett, Andrew	Gionet, Edmond
Hammond, Lee	Maybeck, Margie	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter		

**HILLSBOROUGH**

Baroody, Benjamin	Barry, J Gail	Bergin, Peter	Brassard, Paul
Buckley, Raymond	Carlson, Donald	Carter, Mark	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Craig, James

Dokmo, Cynthia  
 Haley, Robert  
 Katsiantonis, Thomas  
 Lefebvre, Roland  
 Ober, Russell III  
 Shaw, Barbara  
 Sweeney, Cynthia

Ford, Nancy  
 Irwin, Anne-Marie  
 Kopka, Angeline  
 Malloy, Chris  
 Pappas, Christopher  
 Souza, Kathleen  
 Vaillancourt, Steve

Gibson, John  
 Jean, Claudette  
 Lasky, Bette  
 Martin, Mary Ellen  
 Pilotte, Maurice  
 Sullivan, Francis

Gorman, Mary  
 Johnson, Lionel  
 Leach, Edward  
 Movsesian, Lori  
 Schulze, Joan  
 Sullivan, Peter

### MERRIMACK

Blanchard, Elizabeth  
 Daniels, Eric  
 French, Barbara  
 Langer, Ray  
 Owen, Derek  
 Reed, Dennis

Bouchard, Candace  
 Davis, Frank  
 Gile, Mary  
 McCormick, Tom  
 Perkins, Randy  
 Rush, Deanna

Brueggemann, Donald  
 DeJoie, John  
 Hamm, Christine  
 Oliver, James  
 Potter, Frances  
 Seldin, Gloria

Clarke, Claire  
 DeStefano, Stephen  
 Jacobson, Alf  
 Osborne, Jessie  
 Reardon, Tara  
 Wallner, Mary Jane

### ROCKINGHAM

Blanchard, MaryAnn  
 Cooney, Richard  
 Gleason, John  
 McMahon, Charles  
 Shultis, Elizabeth

Casey, Kimberley  
 Corbin, Corey  
 Hamel, Albert  
 Moore, Benjamin  
 Splaine, James

Clark, Vivian  
 Duffy, James  
 Hughes, Daniel  
 Norelli, Terie  
 Vallone, Matthew

Coes, Betsy  
 Gillick, Thomas  
 McEachern, Paul  
 Pitts, Jacqueline  
 Waterhouse, Kevin

### STRAFFORD

Bemis, Alan  
 Creteau, Irene  
 Johnson, Nancy  
 Rous, Emma  
 Taylor, Katherine

Berube, Roger  
 Grassie, Anne  
 Kaen, Naida  
 Schmidt, Peter  
 Taylor, Kathleen

Brown, Julie  
 Heon, Richard  
 Knowles, William  
 Smith, Marjorie  
 Vachon, Dennis

Callaghan, Frank  
 Hofemann, Roland  
 Miller, Joseph  
 Spang, Judith  
 Wall, Janet

### SULLIVAN

Allison, David  
 Ferland, Brenda  
 Phinizy, James

Burling, Peter  
 Franklin, Peter

Cloutier, John  
 Harris, Joseph

Donovan, Thomas  
 Harris, Sandra

and HB 359 was laid on the table.  
 The House recessed at 12:35 p.m.

### RECESS

#### (Speaker Chandler in the Chair)

The House reconvened at 1:40 p.m.

**HB 695-FN**, making placement of political advertising on public property subject to state litter laws. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Richard B. Drisko for the Majority of Election Law: The intent of this bill was to amend RSA 163-B:2, RSA 207:36-b, RSA 265:102.I, and RSA 485-A:15 (the State Litter Laws) to include "political advertising as defined in RSA 664:2.VI" placed on public property in the definitions of "litter" and hence subject to the penalties of those statutes applicable to littering. It was the opinion of the majority that although the aim of the bill was to curb indiscriminate placement of political advertising, there are adequate laws, both state and local, that currently deal with such violations. (Ref: RSA 664:17) Vote 8-5.

Rep. James R. Splaine for the Minority of Election Law: The excessive placement of political signs on public property throughout the state is a growing problem that can see no end. "How many signs are enough?" is a question that comes to mind for many voters, and many campaigns with increasing and sometimes seemingly inexhaustible campaign dollars to spend are answering by saying, "As many as we can put up!". This bill is a simple statement – it makes political signage that is placed and thus abandoned on public property subject to the state litter laws. Among other things, that allows those signs to be taken down by cleanup crews and residents in the area who believe the signs litter their neighborhood. This is not a "free speech" issue – campaigns can find many places to place signs on private property. But no one has the right to litter with their brochures,

their advertising, or their signs. If someone is standing next to their sign on public property waving to voters passing by, that's not an abandoned sign. That's not litter. What is litter is to place a sign on public property and drive off, as many campaigns do. It's not unlike throwing a coffee cup out of your car, and it should stop. By passing this bill, campaigns will cease putting up signs on public locations because they know they can be fined under the state litter laws. Let's get 'em. Reps. Splaine and McEachern spoke against and yielded to questions.

Rep. Drisko spoke in favor.

Rep. McEachern moved Recommit to committee and spoke in favor.

Rep. Whalley spoke against.

Recommit motion failed.

Majority committee report adopted.

### **HB 767-FN, relative to political advertising not authorized by the candidate. OUGHT TO PASS WITH AMENDMENT**

Rep. Howard C. Dickinson for Election Law: This bill redefines the definition of "communication" to include internet sites, and transmission by telephone and facsimile, as well as posters, cards, pamphlets, leaflets, flyers, etc. This bill further emphasizes that political advertising sponsored by political committees must so state. Vote 10-5.

#### **Amendment (1897h)**

Amend RSA 664:14, VI as inserted by section 2 of the bill by replacing it with the following:

VI. Notwithstanding any other provision of this section, any advertising in support of or in opposition to a candidate by a political committee *shall comply with this paragraph. If the advertising is not authorized by the candidate or candidate committee, the advertising shall so state and shall identify the sponsor of the advertisement.* All such political advertising [~~broadcast on television~~] shall include the statement: "This advertisement has been paid for by (name of sponsor) and has not been authorized by any candidate." Such statement shall be made both aurally and visually *if broadcast on television*. The visual presentation *on television* shall be clearly legible and shall use letters equal to or greater than 12 percent of the vertical picture height and shall be broadcast for not less than 4 seconds at the conclusion of the advertisement.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

#### **AMENDED ANALYSIS**

This bill expands the definition of "communication" for purposes of political advertising to include Internet, telephone, and facsimile, and requires a disclaimer for advertising that is not political advertising, but which mentions or depicts a candidate.

Adopted.

Report adopted and ordered to third reading.

**HB 72**, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Omer C. Ahern, Jr. for Environment and Agriculture: The problem this bill proposes to solve is the reluctance of local law enforcement to pursue violations of the law as a misdemeanor, which the Commissioner cannot pursue without the assistance of local law enforcement. This bill provides the Department of Agriculture, Markets & Food with more flexibility in pursuing violations of existing state law as to the sale of animals and pets, in that the Commissioner of the Department, or his designee, may impose an administrative fine of up to \$1,000 per violation of the law. The Commissioner has the same authority to impose the same fines in many other state statutes. Vote 15-3.

#### **Amendment (1353h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Sale of Animals and Pets; Administrative Fines. RSA 437:9 is repealed and reenacted to read as follows:

437:9 Penalty.

I. Any person who violates this subdivision shall be guilty of a misdemeanor.

II. Any person or owner who violates any of the provisions of this subdivision or rule adopted under it may also be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.



III. In addition, once a license has been revoked under the provisions of RSA 437:3, the department may require that all animals and birds located on the premises for which such license was revoked shall be removed by the licensee from such premises within 3 working days after the revocation and be relocated to a safe and sanitary place approved by the department.

2 Health Certificate for Cats; Administrative Fines. RSA 437:13-a, VI is repealed and reenacted to read as follows:

VI.(a) Any person who violates this subdivision shall be guilty of a misdemeanor.

(b) In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.

3 Breeder's Health Certificate; Administrative Fines. RSA 466:6-a, VI is repealed and reenacted to read as follows:

VI.(a) Any person who violates this subdivision shall be guilty of a misdemeanor.

(b) In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.

4 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill provides uniform penalties for violations of animal health certificate law.

Adopted.

Report adopted and ordered to third reading.

**HB 220**, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations. **OUGHT TO PASS**

Rep. Peter H. Allen for Environment and Agriculture: Passage of this bill would require the Speaker of the House and the Senate President to appoint three members each to study amending the New Hampshire Constitution by adding language to require state consideration of future generations when deciding questions regarding agricultural and natural resources. Vote 10-3.

Rep. Harrington spoke against and yielded to questions.

Rep. Diamond spoke in favor and yielded to questions.

Rep. Peter Allen spoke in favor.

### LAIID ON THE TABLE

Rep. Soltani moved that **HB 220**, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations, be laid on the table.

Rep. Peter Allen requested a roll call; sufficiently seconded.

The question being adoption of the motion to lay on the table.

### YEAS 183 NAYS 150

#### YEAS 183

#### BELKNAP

Allen, Janet  
Fitzgerald, James  
Russell, David

Bartlett, Gordon  
Flanders, Donald  
Wendelboe, Fran

Boyce, Laurie  
Pilliod, James  
Whalley, Michael

Clark, Charles  
Rice, Thomas

#### CARROLL

Babson, David Jr  
Kenney, Bettie  
Patten, Betsey

Brown, Carolyn  
McConkey, Mark  
Philbrick, Donald

Dickinson, Howard  
Merrow, Harry  
Stevens, Stanley

Hatch, Paul  
Mock, Henry

#### CHESHIRE

Laurent, John  
Royce, H Charles

Liebl, George  
Smith, Edwin

Pratt, Irene

Pratt, John

**COOS**

Brady, Mark  
Richardson, Herbert  
Woodward, David

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

**GRAFTON**

Almy, Susan  
Gionet, Edmond  
Naro, Debra

Barker, Robert  
Giuda, Robert  
Sokol, Hilda

Dorsett, Andrew  
Hammond, Lee  
Sorg, Gregory

Gilman, G Michael  
Ingretson, Paul

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Carlson, Donald  
Chabot, Robert  
Elliott, Larry  
Ford, Nancy  
Hallyburton, Margaret  
Hinkle, Peyton  
Johnson, Lionel  
Lefebvre, Roland  
Messier, Irene  
O'Brien, Lori  
Rowe, Robert  
Sweeney, Cynthia  
Wheeler, James

Allan, Nelson  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Emerton, Larry  
Gargas, Carolyn  
Harrington, Paul  
Hopper, Gary  
Kurk, Neal  
Luebkert, Bernard  
Mooney, Maureen  
Pepino, Leo  
Scanlon, Michael  
Tahir, Saghir  
Wheeler, Robert

Arnold, Thomas Jr  
Bruno, Pierre  
Carter, Mark  
Coughlin, Pamela  
Fields, Dennis  
Gibson, John  
Hawkins, Ken  
Infantine, William  
L'Heureux, Robert  
McRae, Karen  
Moran, Edward  
Price, Pamela  
Slocum, Lee  
Tate, Joan

Artz, Lawrence  
Buhlman, David  
Cernota, Albert  
Drisko, Richard  
Fletcher, Richard  
Hagan, Barbara  
Haytayan, Harry Jr  
Jasper, Shawn  
Laflamme, Charles  
Mercer, Robert  
Mosher, William  
Reeves, Sandra  
Souza, Kathleen  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
Foley, Albert  
Langer, Ray  
Marple, Richard  
Soltani, Tony

Bouchard, Candace  
Hess, David  
Leber, William  
McCormick, Tom

Currier, David  
Kenison, Leon  
Lockwood, Priscilla  
Nutter, Edward

Daniels, Eric  
Kennedy, Richard  
MacKay, James  
Oliver, James

**ROCKINGHAM**

Bicknell, Elbert  
Carson, Sharon  
Fesh, Bob  
Griffin, Mary  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Manning, John  
Morris, Richard  
Ruffner, Walter  
Varrell, Thomas  
Wiley, Robert

Bishop, Franklin  
Clark, Vivian  
Francoeur, Sheila  
Hamel, Albert  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
McCann, Richard  
Noyes, Richard  
Smith, Donald  
Weare, E Albert  
Zolla, William

Cady, Harriet  
DiFruscia, Anthony  
Gilbert, Jeffrey  
Headd, James  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McKinney, Betsy  
Putnam, Ed II  
Smith, Paul  
Welch, David

Camm, Kevin  
Dumaine, Dudley  
Gleason, John  
Holland, James Jr  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McMahon, Charles  
Quandt, Matthew  
Vallone, Matthew  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Newton, Clifford  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Scott, David

Bickford, David  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Knowles, William  
Wall, Janet

**SULLIVAN**

Rodeschin, Beverly

## NAYS 150 BELKNAP

Ahern, Omer Jr	Dewhirst, Glenn	Lawton, David	Nedeau, Stephen
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## CARROLL

Derby, Mark	Olimpio, J Lisbeth
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## CHESHIRE

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espiefs, Peter	Fish, Douglas	Hunt, John	Manning, Joseph
Meador, David	Mitchell, McKim	Parkhurst, Henry	Richardson, Barbara
Robertson, Timothy	Tilton, Anna	Weed, Charles	

## COOS

Mears, Edgar

## GRAFTON

Akins, Ralph	Alger, John	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dudley, Terri
Maybeck, Margie	Nordgren, Sharon	Scovner, Nancy	Solomon, Peter

## HILLSBOROUGH

Baroody, Benjamin	Barry, J Gail	Batula, Peter	Beaton, William
Bergin, Peter	Brassard, Paul	Buckley, Raymond	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Craig, James
Desmarais, Vivian	Dokmo, Cynthia	Gonzalez, Carlos	Gorman, Mary
Graham, John	Greenberg, Gary	Haley, Robert	Hall, Charles
Hansen, Ryan	Irwin, Anne-Marie	Jean, Claudette	Katsiantonis, Thomas
Kopka, Angeline	LaFlamme, Paul	Lasky, Bette	Leach, Edward
Malloy, Chris	Martin, Mary Ellen	McHugh, Claire	Movsesian, Lori
Ober, Russell III	Pappas, Christopher	Pilotte, Maurice	Schulze, Joan
Shaw, Barbara	Spiess, Paul	Stepanek, Stephen	Sullivan, Francis

## MERRIMACK

Blanchard, Elizabeth	Brueggemann, Donald	Clarke, Claire	Davis, Frank
DeJoie, John	DeStefano, Stephen	Field, William	Fraser, Leo Jr
French, Barbara	Hager, Elizabeth	Hamm, Christine	Jacobson, Alf
Maxfield, Roy	Osborne, Jessie	Owen, Derek	Perkins, Randy
Potter, Frances	Reardon, Tara	Rush, Deanna	Seldin, Gloria
Wallner, Mary Jane			

## ROCKINGHAM

Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell	Casey, Kimberley
Coes, Betsy	Cooney, Richard	Dalrymple, Janeen	Dodge, Robert
Flanders, John Sr	Gillick, Thomas	Gould, Kenneth	Hughes, Daniel
Major, Norman	McEachern, Paul	Norelli, Terie	Pitts, Jacqueline
Robertson, Carl	Roessner, Kurt	Shultis, Elizabeth	Splaine, James
Stone, Joseph	Tufts, J Arthur	Waterhouse, Kevin	Winchell, George

## STRAFFORD

Berube, Roger	Brown, Julie	Callaghan, Frank	Creteau, Irene
Dunlap, Patricia	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Miller, Joseph	Musler, George	Pelletier, Arthur
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Taylor, Katherine
Taylor, Kathleen	Vachon, Dennis		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph
Harris, Sandra	Jones, Constance	Leone, Richard	Phinizy, James

and HB 220 was laid on the table.

**HB 482**, establishing a committee to study certification of organic products. **INEXPEDIENT TO LEGISLATE**

Rep. Omer C. Ahern, Jr. for Environment and Agriculture: The content of this bill is already covered under existing law. Accordingly, there is no need for this bill. Vote 13-0.

Adopted.

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing. **INEXPEDIENT TO LEGISLATE**

Rep. Derek Owen for Environment and Agriculture: This bill was found through testimony to be unnecessary. The State Veterinarian testified that there are existing statutes addressing the problems presented in the bill. Further, new rules by the Greyhound Commission support the existing law. Therefore, we moved Inexpedient to Legislate. Vote 12-5.

Rep. Paul LaFlamme spoke against.

Reps. Owen and Babson spoke in favor.

Rep. Putnam request a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 166 NAYS 168**

**YEAS 166****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Fitzgerald, James	Flanders, Donald	Nedeau, Stephen
Pilliod, James	Whalley, Michael		

**CARROLL**

Babson, David Jr	Derby, Mark	Hatch, Paul	McConkey, Mark
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

**CHESHIRE**

Allen, Peter	Dexter, Judson	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Meador, David	Mitchell, McKim
Royce, H Charles	Smith, Edwin	Weed, Charles	

**COOS**

Guay, Lawrence	King, Frederick	Mears, Edgar	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Bleyler, Ruth
Dudley, Terri	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Hammond, Lee	Ingbertson, Paul	Sokol, Hilda	Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis	Beaton, William	Bergin, Peter	Brundige, Robert
Carlson, Donald	Carter, Mark	Clemons, Jane	Coughlin, Pamela
Craig, James	Dokmo, Cynthia	Emerton, Larry	Fletcher, Richard
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hopper, Gary
Jasper, Shawn	Katsiantonis, Thomas	Kurk, Neal	Lasky, Bette
Luebker, Bernard	McRae, Karen	Messier, Irene	Mooney, Maureen
Moran, Edward	Mosher, William	Pepino, Leo	Rowe, Robert
Scanlon, Michael	Slocum, Lee	Tahir, Saghir	Wheeler, James
Wheeler, Robert			

**MERRIMACK**

Anderson, Eric  
Fraser, Leo Jr  
Jacobson, Alf  
Maxfield, Roy  
Owen, Derek  
Seldin, Gloria

Clarke, Claire  
French, Barbara  
Kennedy, Richard  
McCormick, Tom  
Perkins, Randy

Currier, David  
Hager, Elizabeth  
Leber, William  
Nutter, Edward  
Potter, Frances

Foley, Albert  
Hess, David  
Marple, Richard  
Oliver, James  
Reardon, Tara

**ROCKINGHAM**

Belanger, Ronald  
Cady, Harriet  
Cooney, Richard  
Fesh, Bob  
Gillick, Thomas  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
Robertson, Carl  
Tufts, J Arthur  
Welch, David

Bicknell, Elbert  
Camm, Kevin  
Corbin, Corey  
Flanders, John Sr  
Gleason, John  
Johnson, Rogers  
Langley, Jane  
McEachern, Paul  
Shultis, Elizabeth  
Varrell, Thomas  
Wiley, Robert

Bishop, Franklin  
Clark, Vivian  
Dalrymple, Janeen  
Francoeur, Sheila  
Griffin, Mary  
Katsakiores, George  
Langone, John  
McKinney, Betsy  
Smith, Donald  
Waterhouse, Kevin  
Zolla, William

Blanchard, MaryAnn  
Coes, Betsy  
Dodge, Robert  
Gilbert, Jeffrey  
Holland, James Jr  
Katsakiores, Phyllis  
Letourneau, Robert  
Noyes, Richard  
Stone, Joseph  
Weare, E Albert

**STRAFFORD**

Berube, Roger  
Creteau, Irene  
Musler, George  
Vachon, Dennis

Brown, Julie  
Dunlap, Patricia  
Newton, Clifford  
Wall, Janet

Campbell, W Packy  
Harrington, Michael  
Schmidt, Peter

Cataldo, Sam  
Johnson, Nancy  
Scott, David

**SULLIVAN**

Cloutier, John  
Leone, Richard

Donovan, Thomas  
Rodeschin, Beverly

Flint, Gordon Sr

Jones, Constance

**NAYS 168****BELKNAP**

Dewhirst, Glenn  
Wendelboe, Fran

Lawton, David

Rice, Thomas

Russell, David

**CARROLL**

Brown, Carolyn  
Mock, Henry

Dickinson, Howard

Kenney, Bettie

Merrow, Harry

**CHESHIRE**

Dunn, James  
Parkhurst, Henry  
Robertson, Timothy

Eaton, Daniel  
Pratt, Irene  
Tilton, Anna

Espiefs, Peter  
Pratt, John

Fish, Douglas  
Richardson, Barbara

**COOS**

Brady, Mark

Theberge, Robert

**GRAFTON**

Akins, Ralph  
Diamond, Estelle  
Nordgren, Sharon

Benn, Bernard  
Dorsett, Andrew  
Scovner, Nancy

Cooney, Mary  
Maybeck, Margie  
Solomon, Peter

Densmore, Edward  
Naro, Debra

**HILLSBOROUGH**

Allan, Nelson  
Baroody, Benjamin  
Bruno, Pierre  
Cernota, Albert

Arnold, Thomas Jr  
Barry, J Gail  
Buckley, Raymond  
Chabot, Robert

Artz, Lawrence  
Batula, Peter  
Buhlman, David  
Christensen, D L Chris

Balboni, Michael  
Brassard, Paul  
Carter, Jeffrey  
Clayton, William

Cote, David  
 Elliott, Larry  
 Gibson, John  
 Greenberg, Gary  
 Hallyburton, Margaret  
 Irwin, Anne-Marie  
 Laflamme, Charles  
 Malloy, Chris  
 Movsesian, Lori  
 Pilotte, Maurice  
 Shaw, Barbara  
 Sullivan, Francis  
 Vaillancourt, Steve

Cote, Peter  
 Fields, Dennis  
 Gonzalez, Carlos  
 Hagan, Barbara  
 Harrington, Paul  
 Jean, Claudette  
 LaFlamme, Paul  
 Martin, Mary Ellen  
 O'Brien, Lori  
 Price, Pamela  
 Souza, Kathleen  
 Sullivan, Peter

Desmarais, Vivian  
 Ford, Nancy  
 Gorman, Mary  
 Haley, Robert  
 Haytayan, Harry Jr  
 Johnson, Lionel  
 Leach, Edward  
 McHugh, Claire  
 Ober, Russell III  
 Reeves, Sandra  
 Spiess, Paul  
 Sweeney, Cynthia

Drisko, Richard  
 Gargas, Carolyn  
 Graham, John  
 Hall, Charles  
 Infantine, William  
 Kopka, Angeline  
 Lefebvre, Roland  
 Mercer, Robert  
 Pappas, Christopher  
 Schulze, Joan  
 Stepanek, Stephen  
 Tate, Joan

### MERRIMACK

Blanchard, Elizabeth  
 Davis, Frank  
 Hamm, Christine  
 MacKay, James  
 Wallner, Mary Jane

Bouchard, Candace  
 DeJoie, John  
 Kenison, Leon  
 Osborne, Jessie

Brueggemann, Donald  
 DeStefano, Stephen  
 Langer, Ray  
 Rush, Deanna

Daniels, Eric  
 Field, William  
 Lockwood, Priscilla  
 Soltani, Tony

### ROCKINGHAM

Bridle, Russell  
 Dumaine, Dudley  
 Hughes, Daniel  
 Kelley, Jane  
 Morris, Richard  
 Quandt, Matthew  
 Splaine, James

Carson, Sharon  
 Gould, Kenneth  
 Ingram, Russell  
 Manning, John  
 Norelli, Terie  
 Roessner, Kurt  
 Vallone, Matthew

Casey, Kimberley  
 Hamel, Albert  
 Introne, Robert  
 McCann, Richard  
 Pitts, Jacqueline  
 Ruffner, Walter  
 Weyler, Kenneth

DiFruscia, Anthony  
 Headd, James  
 Itse, Daniel  
 McMahon, Charles  
 Putnam, Ed II  
 Smith, Paul  
 Winchell, George

### STRAFFORD

Albert, Russell  
 Easson, Timothy  
 Knowles, William  
 Smith, Marjorie  
 Twombly, James

Bemis, Alan  
 Heon, Richard  
 Miller, Joseph  
 Spang, Judith  
 Woods, Phyllis

Bickford, David  
 Hofemann, Roland  
 Pelletier, Arthur  
 Taylor, Katherine

Callaghan, Frank  
 Kaen, Naida  
 Rous, Emma  
 Taylor, Kathleen

### SULLIVAN

Allison, David  
 Harris, Joseph

Burling, Peter  
 Harris, Sandra

Ferland, Brenda  
 Phinizy, James

Franklin, Peter

and the committee report failed.

Rep. Paul LaFlamme moved Ought to Pass.

### MOTION TO LAY ON THE TABLE

Rep. Owen moved that **HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing, be laid on the table.

Rep. Owen requested a roll call, sufficiently seconded.

**YEAS 142 NAYS 193**

### YEAS 142

### BELKNAP

Ahern, Omer Jr  
 Clark, Charles

Allen, Janet  
 Fitzgerald, James

Bartlett, Gordon  
 Flanders, Donald

Boyce, Laurie  
 Whalley, Michael

### CARROLL

Babson, David Jr  
 Olimpio, J Lisbeth

Derby, Mark  
 Patten, Betsey

Hatch, Paul  
 Stevens, Stanley

McConkey, Mark

**CHESHIRE**

Allen, Peter  
Liebl, George  
Royce, H Charles

Dexter, Judson  
Manning, Joseph  
Smith, Edwin

Hunt, John  
Meader, David  
Weed, Charles

Laurent, John  
Mitchell, McKim

**COOS**

Guay, Lawrence  
Richardson, Herbert

King, Frederick  
Stohl, Eric

Mears, Edgar  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

**GRAFTON**

Alger, John  
Dudley, Terri  
Sokol, Hilda

Almy, Susan  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Hammond, Lee

Diamond, Estelle  
Ingbertson, Paul

**HILLSBOROUGH**

Bergin, Peter  
Craig, James  
Hansen, Ryan  
Jasper, Shawn  
Messier, Irene  
Pepino, Leo  
Tahir, Saghir

Brundige, Robert  
Dokmo, Cynthia  
Hawkins, Ken  
Kurk, Neal  
Mooney, Maureen  
Rowe, Robert  
Wheeler, James

Carter, Mark  
Emerton, Larry  
Hinkle, Peyton  
L'Heureux, Robert  
Moran, Edward  
Scanlon, Michael  
Wheeler, Robert

Coughlin, Pamela  
Fletcher, Richard  
Hopper, Gary  
Luebker, Bernard  
Mosher, William  
Slocum, Lee

**MERRIMACK**

Anderson, Eric  
Foley, Albert  
Jacobson, Alf  
McCormick, Tom

Bouchard, Candace  
French, Barbara  
Kennedy, Richard  
Nutter, Edward

Currier, David  
Hager, Elizabeth  
Leber, William  
Owen, Derek

DeJoie, John  
Hess, David  
Marple, Richard  
Seldin, Gloria

**ROCKINGHAM**

Bicknell, Elbert  
Camm, Kevin  
Fesh, Bob  
Griffin, Mary  
Johnson, Rogers  
Langley, Jane  
McCann, Richard  
Robertson, Carl  
Tufts, J Arthur  
Wiley, Robert

Bishop, Franklin  
Clark, Vivian  
Francoeur, Sheila  
Ingram, Russell  
Katsakiores, George  
Langone, John  
McEachern, Paul  
Shultis, Elizabeth  
Varrell, Thomas  
Zolla, William

Blanchard, MaryAnn  
Coes, Betsy  
Gilbert, Jeffrey  
Introne, Robert  
Katsakiores, Phyllis  
Letourneau, Robert  
McKinney, Betsy  
Smith, Donald  
Waterhouse, Kevin

Cady, Harriet  
Dodge, Robert  
Gleason, John  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
Norelli, Terie  
Stone, Joseph  
Weare, E Albert

**STRAFFORD**

Berube, Roger  
Harrington, Michael  
Scott, David

Brown, Julie  
Johnson, Nancy  
Smith, Marjorie

Campbell, W Packy  
Musler, George  
Vachon, Dennis

Creteau, Irene  
Schmidt, Peter  
Wall, Janet

**SULLIVAN**

Cloutier, John  
Rodeschin, Beverly

Flint, Gordon Sr

Jones, Constance

Leone, Richard

**NAYS 193****BELKNAP**

Dewhirst, Glenn  
Rice, Thomas

Lawton, David  
Russell, David

Nedeau, Stephen  
Wendelboe, Fran

Pilliod, James

**CARROLL**

Brown, Carolyn  
Mock, Henry

Dickinson, Howard  
Philbrick, Donald

Kenney, Bettie

Merrow, Harry

**CHESHIRE**

Dunn, James  
Parkhurst, Henry  
Robertson, Timothy

Eaton, Daniel  
Pratt, Irene  
Tilton, Anna

Espieffs, Peter  
Pratt, John

Fish, Douglas  
Richardson, Barbara

**COOS**

Brady, Mark

Theberge, Robert

**GRAFTON**

Akins, Ralph  
Densmore, Edward  
Maybeck, Margie  
Solomon, Peter

Benn, Bernard  
Dorsett, Andrew  
Naro, Debra

Bleyler, Ruth  
Gilman, G Michael  
Nordgren, Sharon

Cooney, Mary  
Giuda, Robert  
Scovner, Nancy

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Beaton, William  
Buhlman, David  
Chabot, Robert  
Cote, David  
Elliott, Larry  
Gibson, John  
Greenberg, Gary  
Hallyburton, Margaret  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
McHugh, Claire  
O'Brien, Lori  
Price, Pamela  
Souza, Kathleen  
Sullivan, Peter

Allan, Nelson  
Baroody, Benjamin  
Brassard, Paul  
Carlson, Donald  
Christensen, D L Chris  
Cote, Peter  
Fields, Dennis  
Gonzalez, Carlos  
Hagan, Barbara  
Harrington, Paul  
Jean, Claudette  
Laflamme, Charles  
Lefebvre, Roland  
McRae, Karen  
Ober, Russell III  
Reeves, Sandra  
Spiess, Paul  
Sweeney, Cynthia

Arnold, Thomas Jr  
Barry, J Gail  
Bruno, Pierre  
Carter, Jeffrey  
Clayton, William  
Desmarais, Vivian  
Ford, Nancy  
Gorman, Mary  
Haley, Robert  
Haytayan, Harry Jr  
Johnson, Lionel  
LaFlamme, Paul  
Malloy, Chris  
Mercer, Robert  
Pappas, Christopher  
Schulze, Joan  
Stepanek, Stephen  
Tate, Joan

Artz, Lawrence  
Batula, Peter  
Buckley, Raymond  
Cernota, Albert  
Clemons, Jane  
Drisko, Richard  
Gargas, Carolyn  
Graham, John  
Hall, Charles  
Infantine, William  
Katsiantonis, Thomas  
Lasky, Bette  
Martin, Mary Ellen  
Movsesian, Lori  
Pilotte, Maurice  
Shaw, Barbara  
Sullivan, Francis  
Vaillancourt, Steve

**MERRIMACK**

Bianchard, Elizabeth  
Davis, Frank  
Hamm, Christine  
MacKay, James  
Perkins, Randy  
Soltani, Tony

Brueggemann, Donald  
DeStefano, Stephen  
Kenison, Leon  
Maxfield, Roy  
Potter, Frances  
Wallner, Mary Jane

Clarke, Claire  
Field, William  
Langer, Ray  
Oliver, James  
Reardon, Tara

Daniels, Eric  
Fraser, Leo Jr  
Lockwood, Priscilla  
Osborne, Jessie  
Rush, Deanna

**ROCKINGHAM**

Belanger, Ronald  
Cooney, Richard  
Dumaine, Dudley  
Hamel, Albert  
Itse, Daniel  
Morris, Richard  
Quandt, Matthew  
Splaine, James  
Winchell, George

Bridle, Russell  
Corbin, Corey  
Flanders, John Sr  
Headd, James  
Kelley, Jane  
Noyes, Richard  
Roessner, Kurt  
Vallone, Matthew

Carson, Sharon  
Dalrymple, Janeen  
Gillick, Thomas  
Holland, James Jr  
Manning, John  
Pitts, Jacqueline  
Ruffner, Walter  
Welch, David

Casey, Kimberley  
DiFruscia, Anthony  
Gould, Kenneth  
Hughes, Daniel  
McMahon, Charles  
Putnam, Ed II  
Smith, Paul  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Hofemann, Roland  
Newton, Clifford  
Taylor, Katherine

Bemis, Alan  
Dunlap, Patricia  
Kaen, Naida  
Pelletier, Arthur  
Taylor, Kathleen

Bickford, David  
Easson, Timothy  
Knowles, William  
Rous, Emma  
Twombly, James

Callaghan, Frank  
Heon, Richard  
Miller, Joseph  
Spang, Judith  
Woods, Phyllis



**SULLIVAN**

Allison, David	Burling, Peter	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Harris, Joseph	Harris, Sandra	Phinizy, James

and the motion failed.  
The question now being the motion of Ought to Pass.  
Rep. Belanger requested a roll call, sufficiently seconded.

**YEAS 186 NAYS 149****YEAS 186****BELKNAP**

Dewhirst, Glenn	Fitzgerald, James	Lawton, David	Pilliod, James
Rice, Thomas	Russell, David	Wendelboe, Fran	

**CARROLL**

Brown, Carolyn	Dickinson, Howard	Hatch, Paul	Kenney, Bettie
Morrow, Harry	Mock, Henry		

**CHESHIRE**

Dunn, James	Eaton, Daniel	Espiefs, Peter	Fish, Douglas
Parkhurst, Henry	Pratt, Irene	Pratt, John	Richardson, Barbara
Robertson, Timothy	Tilton, Anna		

**COOS**

Brady, Mark	Mears, Edgar	Pratt, Leighton	Theberge, Robert
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**GRAFTON**

Akins, Ralph	Benn, Bernard	Cooney, Mary	Densmore, Edward
Diamond, Estelle	Dorsett, Andrew	Maybeck, Margie	Naro, Debra
Nordgren, Sharon	Scovner, Nancy	Solomon, Peter	

**HILLSBOROUGH**

Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Baroody, Benjamin	Barry, J Gail	Batula, Peter	Bergin, Peter
Brassard, Paul	Bruno, Pierre	Buckley, Raymond	Buhlman, David
Carlson, Donald	Carter, Jeffrey	Cernota, Albert	Chabot, Robert
Christensen, D L Chris	Clayton, William	Cote, David	Cote, Peter
Desmarais, Vivian	Dokmo, Cynthia	Drisko, Richard	Elliott, Larry
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Gargasz, Carolyn
Gibson, John	Gonzalez, Carlos	Gorman, Mary	Graham, John
Greenberg, Gary	Hagan, Barbara	Haley, Robert	Hall, Charles
Hallyburton, Margaret	Harrington, Paul	Haytayan, Harry Jr	Infantine, William
Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel	Katsiantonis, Thomas
Kopka, Angeline	Laflamme, Charles	LaFlamme, Paul	Leach, Edward
Lefebvre, Roland	Malloy, Chris	Martin, Mary Ellen	McHugh, Claire
Mercer, Robert	Mosher, William	Movsesian, Lori	O'Brien, Lori
Ober, Russell III	Pappas, Christopher	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Schulze, Joan	Shaw, Barbara	Souza, Kathleen
Spiess, Paul	Stepanek, Stephen	Sullivan, Francis	Sullivan, Peter
Sweeney, Cynthia	Tate, Joan	Vaillancourt, Steve	

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Daniels, Eric
Davis, Frank	DeStefano, Stephen	Field, William	Hamm, Christine
Kenison, Leon	Langer, Ray	Lockwood, Priscilla	MacKay, James
Osborne, Jessie	Rush, Deanna	Soltani, Tony	Wallner, Mary Jane

**ROCKINGHAM**

Bridle, Russell	Camm, Kevin	Carson, Sharon	Casey, Kimberley
Cooney, Richard	Corbin, Corey	DiFruscia, Anthony	Dumaine, Dudley
Gould, Kenneth	Griffin, Mary	Hamel, Albert	Headd, James
Hughes, Daniel	Ingram, Russell	Introne, Robert	Itse, Daniel
Johnson, Robert	Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane
Letourneau, Robert	Manning, John	McMahon, Charles	Morris, Richard
Norelli, Terie	Noyes, Richard	Pitts, Jacqueline	Putnam, Ed II
Quandt, Matthew	Roessner, Kurt	Ruffner, Walter	Smith, Paul
Splaine, James	Vallone, Matthew	Weyler, Kenneth	Winchell, George

**STRAFFORD**

Albert, Russell	Bemis, Alan	Bickford, David	Callaghan, Frank
Easson, Timothy	Heon, Richard	Hofemann, Roland	Kaen, Naida
Knowles, William	Miller, Joseph	Pelletier, Arthur	Rous, Emma
Smith, Marjorie	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Twombly, James	Woods, Phyllis		

**SULLIVAN**

Allison, David	Burling, Peter	Ferland, Brenda	Franklin, Peter
Harris, Joseph	Harris, Sandra	Phinizy, James	

**NAYS 149****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Flanders, Donald	Nedeau, Stephen	Whalley, Michael

**CARROLL**

Babson, David Jr	Derby, Mark	McConkey, Mark	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

**CHESHIRE**

Allen, Peter	Dexter, Judson	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Meador, David	Mitchell, McKim
Royce, H Charles	Smith, Edwin	Weed, Charles	

**COOS**

Guay, Lawrence	King, Frederick	Richardson, Herbert	Stohl, Eric
Tholl, John Jr	Woodward, David		

**GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Bleyler, Ruth
Dudley, Terri	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Hammond, Lee	Ingretson, Paul	Sokol, Hilda	Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis	Beaton, William	Brundige, Robert	Carter, Mark
Clemons, Jane	Coughlin, Pamela	Craig, James	Emerton, Larry
Hansen, Ryan	Hawkins, Ken	Hinkle, Peyton	Hopper, Gary
Jasper, Shawn	Kurk, Neal	L'Heureux, Robert	Lasky, Bette
Luebker, Bernard	McRae, Karen	Messier, Irene	Mooney, Maureen
Moran, Edward	Pepino, Leo	Rowe, Robert	Scanlon, Michael
Slocum, Lee	Tahir, Saghir	Wheeler, James	Wheeler, Robert

**MERRIMACK**

Anderson, Eric	Clarke, Claire	Currier, David	DeJoie, John
Foley, Albert	Fraser, Leo Jr	French, Barbara	Hager, Elizabeth

Hess, David  
Marple, Richard  
Oliver, James  
Reardon, Tara

Jacobson, Alf  
Maxfield, Roy  
Owen, Derek  
Seldin, Gloria

Kennedy, Richard  
McCormick, Tom  
Perkins, Randy

Leber, William  
Nutter, Edward  
Potter, Frances

### ROCKINGHAM

Belanger, Ronald  
Cady, Harriet  
Dodge, Robert  
Gilbert, Jeffrey  
Johnson, Rogers  
Major, Norman  
Robertson, Carl  
Tufts, J Arthur  
Welch, David

Bicknell, Elbert  
Clark, Vivian  
Fesh, Bob  
Gillick, Thomas  
Kobel, Rudolph  
McCann, Richard  
Shultis, Elizabeth  
Varrell, Thomas  
Wiley, Robert

Bishop, Franklin  
Coes, Betsy  
Flanders, John Sr  
Gleason, John  
Langley, Jane  
McEachern, Paul  
Smith, Donald  
Waterhouse, Kevin  
Zolla, William

Blanchard, MaryAnn  
Dalrymple, Janeen  
Francoeur, Sheila  
Holland, James Jr  
Langone, John  
McKinney, Betsy  
Stone, Joseph  
Weare, E Albert

### STRAFFORD

Berube, Roger  
Creteau, Irene  
Musler, George  
Vachon, Dennis

Brown, Julie  
Dunlap, Patricia  
Newton, Clifford  
Wall, Janet

Campbell, W Packy  
Harrington, Michael  
Schmidt, Peter

Cataldo, Sam  
Johnson, Nancy  
Scott, David

### SULLIVAN

Cloutier, John  
Leone, Richard

Donovan, Thomas  
Rodeschin, Beverly

Flint, Gordon Sr

Jones, Constance

and the motion of Ought to Pass was adopted.  
Ordered to third reading.

### MOTION TO RECONSIDER

Having voted with the prevailing side, Rep. Elliott moved that the House reconsider its action whereby it voted **HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing, Ought to Pass.

Rep. Elliott spoke against.

Reconsideration motion failed.

**HB 653-FN-A**, authorizing the production of industrial hemp. **REFER FOR INTERIM STUDY**  
Rep. Burton W. Williams for Environment and Agriculture: The committee feels that industrial hemp production has merit and is important to the furtherance of agriculture in New Hampshire. This study is needed to keep this topic alive and educate the public on this important issue. Vote 14-0.  
Adopted.

**HB 116-FN**, granting group II retirement system status to certain positions in the department of corrections. **REFER FOR INTERIM STUDY**

Rep. Michael O'Neil for Executive Departments and Administration: This bill would move certain positions in the department of corrections from group I to group II in the New Hampshire Retirement System. After thorough discussion, the committee decided that a study of all positions within the corrections system needed to be undertaken. In performing this comprehensive study, the committee agreed that the state director of personnel, members of the criminal justice committee as well as correctional personnel should be involved to determine the correct classification and definitions for group I and II employees. Vote 13-3.

Adopted.

**HB 227**, establishing a committee to study the feasibility of consolidating the administrative functions of regulatory boards and commissions into a single agency. **REFER FOR INTERIM STUDY**  
Rep. Michael O'Neil for Executive Departments and Administration: The committee agrees that the idea has some merit. However, more time is needed to work with Efficiency Commission on this issue. Vote 13-0.

Adopted.

**HB 585-FN**, allowing teachers of private academies which provide public education to be included in the retirement system. **INEXPEDIENT TO LEGISLATE**

Rep. William R. Zolla for Executive Departments and Administration: Chapter 358 was enacted in 1991. It required the New Hampshire Retirement System to cease acceptance of contributions from non-governmental employers and employees, and to cease accrual of benefits of such non-governmental employees not later than June 30, 1991. It further required the withdrawal of all non-governmental employees and employers from the retirement system. This was done to protect the tax-exempt status of the system. While other considerations of a financial nature were considered in the legislation, this was the most important to the current bill. HB 585-FN would be in conflict with IRS Regulation Section 414(d) of the Internal Revenue Code and beyond the jurisdiction of this legislature. This bill, if implemented at this time, would jeopardize the tax-exempt status of the New Hampshire Retirement System. However, should a private employer on an individual basis apply for and receive a Private Letter Ruling from the Internal Revenue Service specifying that they did qualify under Section 414(d) of the code as a public employer due to some extenuating circumstances, then with the acceptance of the Board of Trustees of the retirement system, they could enter the system without affecting its tax exempt status. Thus this legislation is unnecessary. Vote 12-1.  
Adopted.

**HB 729-FN**, relative to the regulation of tanning facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: The bill as amended requires every indoor tanning facility to register with the NH Board of Barbering, Cosmetology and Estheticians. The committee found the Barbering Board to be the logical choice for regulation because many facilities currently licensed by the Board also contain indoor tanning devices. Over-exposure to ultraviolet light is a recognized health risk and the committee believes that the bill represents an important public safety measure that will provide certain minimum standards for indoor tanning facilities. The bill does prohibit use of indoor tanning facilities by minors under the age of 14 without an order from a NH licensed physician. Vote 16-2.

#### **Amendment (2396h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Barbering, Cosmetology and Estheticians; Definition Added. Amend RSA 313-A:1 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Fitzpatrick scale" means the following scale for classifying the 6 skin types, based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season:

Skin Type Sunburning and Tanning History

- 1 Always burns easily; never tans
- 2 Always burns easily; tans minimally
- 3 Burns moderately; tans gradually
- 4 Burns minimally; always tans well
- 5 Rarely burns; tans profusely
- 6 Never burns; deeply pigmented.

2 New Paragraphs; Barbering, Cosmetology and Estheticians; Definitions Added. Amend RSA 313-A:1 by inserting after paragraph IX the following new paragraphs:

XI-a. "Operator" means a person age 18 or older who has received training through a program approved by the board in the safe operation of tanning devices, operates the tanning device, controls the length of the exposure to UV light, and instructs the consumer in the proper use of the device.

XI-b. "Phototherapy device" means equipment that emits UV radiation and is used by licensed health care professionals in the treatment of disease.

3 New Paragraphs; Barbering, Cosmetology and Estheticians; Definition Added. Amend RSA 313-A:1 by inserting after paragraph XIII the following new paragraphs:

XIV. "Tanning device" includes any equipment, including a sunlamp, tanning booth, and tanning bed, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and is used for the tanning of human skin. The term also includes any accompanying equipment, including protective eyewear, timers, and handrails.

XV. "Tanning facility" means any location, place, area, structure or business which provides access to a tanning device for a fee, membership dues or any other compensation.

XVI. "Ultraviolet (UV) radiation" means electromagnetic radiation with wavelengths between 200 nanometers and 400 nanometers.

4 Board Member Changed. Amend RSA 313-A:2, I to read as follows:

I. There shall be a board of barbering, cosmetology, and esthetics consisting of 7 members as follows: one licensed barber, one licensed cosmetologist, one licensed esthetician, one licensed manicurist, one licensed cosmetology school owner who shall be a resident of New Hampshire or a designee of such owner who shall be a licensed cosmetologist and a resident of New Hampshire, *one owner of a registered tanning facility* and [2] *1 public [members] member*; each to be appointed by the governor with the consent of the council to a term of 5 years. No board member shall be appointed to more than 2 consecutive terms. Only board members provided for in this paragraph shall have the authority to vote in board determinations.

5 New Paragraph; Board Duties; Complaints. Amend RSA 313-A:7 by inserting after paragraph II the following new paragraph:

II-a. Maintain a telephone line or an electronic mail address for the purpose of accepting consumer complaints;

6 Board Rulemaking; Ethical Violations. Amend RSA 313-A:8, VI to read as follows:

VI. Ethical and professional standards required to be met by each holder of a license to practice under this chapter and how disciplinary actions by the board shall be implemented for violations of these standards *or for any violation of this chapter*;

7 Rulemaking; Reference Added. Amend RSA 313-A:8, XVII to read as follows:

XVII. A schedule of administrative fines for violations of this chapter under RSA 313-A:22, III(e) *and (f)* and procedures for the payment of such fines.

8 New Paragraph; Rulemaking Added; Tanning Facilities. Amend RSA 313-A:8 by inserting after paragraph X the following new paragraph:

X-a. The regulation of tanning facilities including:

(a) Sanitation and hygiene standards to be met and maintained by tanning facilities.

(b) Standards for approving the training curricula and programs used for training tanning device operators.

(c) Registering tanning facilities.

(d) Standards for the inspection of tanning facilities.

(e) Standards for the consumer consent form required under RSA 313-A:30, IV.

9 New Subparagraph; Disciplinary Proceedings. Amend RSA 313-A:22, I by inserting after subparagraph (b) the following new subparagraph:

(c) In an action concerning a registered tanning facility, upon written complaint from any person which charges a registered tanning facility or operator has violated any provision of RSA 313-A:26-34.

10 Administrative Fines. Amend RSA 313-A:22, III(e) to read as follows:

(e) By imposing an administrative fine not to exceed \$500 for each offense *committed by a licensee of the board*. Each violation shall constitute a separate offense. The fine shall be paid to the board which shall forward it to the state treasurer to be deposited into the general fund.

11 New Subparagraph; Administrative Fines; Tanning Facility Operation. Amend RSA 313-A:22, III by inserting after subparagraph (e) the following new subparagraph:

(f) In an action concerning a registered tanning facility, by imposing an administrative fine not to exceed \$250 for each offense upon any person who violates any provision of RSA 313-A:26-34 or rules adopted pursuant to such subdivision. Any administrative fine imposed under this subparagraph shall not preclude the imposition of further penalties or administrative actions under this chapter. The fine shall be paid to the board which shall forward it to the state treasurer to be deposited into the general fund.

12 New Paragraph; Disciplinary Proceedings; Appeals. Amend RSA 313-A:22 by inserting after paragraph III the following new paragraph:

IV. Appeals and rehearings from a decision of the board shall be made pursuant to RSA 541-A.

13 New Subdivision; Registration of Tanning Facilities. Amend RSA 313-A by inserting after section 25 the following new subdivision:

#### Registration of Tanning Facilities

313-A:26 Advisory Committee Established. There is hereby established the tanning facility advisory committee. The committee shall consist of 2 physicians, licensed under RSA 329, ap-

pointed by the New Hampshire Medical Society, 2 tanning facility owners, appointed by the Indoor Tanning Association of America or its successor organization, and one member of the board, appointed by the chairman of the board, who shall serve as the chairman of the advisory committee. Members shall serve without compensation. The committee shall meet at least twice a year. The committee shall:

I. Advise the board relative to matters pertaining to the regulation of tanning facilities.

II. Advise and assist the board in the development of administrative rules necessary for the implementation of this division;

III. Make recommendations on methods for the appropriate inspection of tanning facilities and methods to monitor compliance with state and federal regulations; and

IV. Advise and assist the board in identifying programs and curricula available in the state for the training of operators and developing standards for the approval of such programs.

#### 313-A:27 Compliance with Law.

I. Every tanning device used by a tanning facility shall comply with all applicable federal and state laws and regulations, including those promulgated by the Federal Trade Commission and the US Food and Drug Administration.

II. The board shall enforce this chapter against a person who adulterates or misbrands a tanning device. The board may investigate a person accused of adulterating or misbranding a tanning device.

#### 313-A:28 Registration of Tanning Facility.

I. It shall be unlawful for any person to engage in the business of operating a tanning facility unless the facility is registered in accordance with this chapter and the registration of such facility is current and valid.

II. Any person, corporation, partnership, association, or other entity operating or intending to open or operate a tanning facility within this state shall file registration statement annually with the board in accordance with rules adopted under RSA 541-A. Such registration statement shall be required for each facility location, shall be duly signed and verified, and shall be posted in a prominent location at the tanning facility. Such registration statement shall include, but not be limited to, the name and the business address of the applicant; if an individual, the name under which the business will be conducted; if a partnership, the name and business address of each member thereof; the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and business address of each of the officers of the corporation; and the place, including the complete mailing address and physical address, where the business is to be conducted. Registration statements shall also list the number and type of tanning devices at each tanning facility location.

313-A:29 Registration Fee Required. No person shall operate a tanning facility without paying an annual registration fee established by the board. Registration fees received from each tanning facility shall be deposited into the general fund.

#### 313-A:30 Operational Requirements.

I. Operators shall have sufficient knowledge in the operation of the tanning devices, including but not limited to:

(a) Requirements of this section and of 21 CFR 1040.20;

(b) Proper use of U.S.F.D.A. Recommended Exposure Schedule;

(c) Procedures for correct operation of the tanning facility/device;

(d) Recognition of injuries and the facility's procedures for handling such injuries from overexposure to ultraviolet radiation;

(e) Manufacturer's procedures for operation and maintenance of the tanning device;

(f) Proper use of protective eyewear;

(g) Emergency procedures in case of injury;

(h) Effects of UV radiation, acute and chronic exposure, biological effects and health risks;

(i) Photosensitizing agents; and

(j) Recognition of the 6 skin types and the Fitzpatrick Scale.

II. Operators shall be trained in all of the areas listed in paragraph I. Training shall be received through curricula and programs approved by the board. A tanning facility shall maintain a list of the facility's operators who have been trained in accordance with this section. Such list shall include the date of the training and shall be available for inspection by the board.

III. Operators shall obtain proof of age from each tanning device user pursuant to RSA 313-A:31, I.

IV. Operators shall read aloud and shall provide each tanning device user with a written consent statement containing the wording listed below and the Fitzpatrick Scale. In the event that the user is under the age of 18, this wording shall be read to the user's parent or guardian. Operators shall obtain the signature of the user or parent or guardian on the written consent prior to the initial exposure to the tanning device. The consumer consent form shall include the following wording in at least size 12 font:

**"DANGER - ULTRAVIOLET RADIATION**

Follow instructions.

Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions.

Repeated exposure may cause premature aging of the skin and skin cancer.

Wear protective eyewear. Failure to use protective eyewear may result in severe burns or long-term injury to the eyes.

Medication or cosmetics may increase your sensitivity to the ultraviolet radiation.

Consult a physician before using sunlamp or tanning equipment if you are using medications or have a history of skin problems or believe yourself to be especially sensitive to sunlight."

V. Upon notification by a consumer of a complaint or an alleged tanning injury, a registrant shall provide information to the consumer about how complaints may be filed with the board.

VI. The tanning facility registrant shall maintain a record for each individual tanning device user which shall include dates exposed, length of exposure and signed consent form. Records shall be maintained for a minimum of 3 years or 3 years past the age of majority of the client.

**313-A:31 Tanning of Minors.**

I. No person under the age of 18 shall be allowed to utilize a tanning device at a tanning facility without the written consent of that person's parent or legal guardian. Proof of age shall be satisfied with a driver license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device; the responsible adult signs a document declaring that they are the parent or legal guardian of the minor and attesting to the age of the minor. The consent of the parent or legal guardian shall be valid for 12 subsequent uses of the tanning device by the minor.

II. No minors under the age of 14 shall be allowed to utilize a tanning device at a tanning facility without a written order from a physician licensed under RSA 329. Persons using a tanning facility under the provisions of this paragraph shall be accompanied by a parent or legal guardian for every use of the tanning facility.

313-A:32 Suspension of Operation. Upon finding a facility in violation of any of the provisions of RSA 313-A:26-34, the board may order the owner of a tanning facility to suspend operation of the facility. Such suspension shall remain in effect until the owner submits proof of compliance with any deficiencies identified by the board. Failure to suspend operation of a tanning facility in accordance with a board order shall be subject to a civil penalty of up to \$500 for each day that the facility remains in operation after issuance of the board order.

313-A:33 Exemption. This subdivision shall not apply to a phototherapy device used by or under the supervision of a licensed health care professional for treatment of disease.

313-A:34 Unregistered Tanning Facilities. Upon notification by the board, operating an unregistered tanning facility shall result in a fine of \$100 per day, for every day the facility remains in operation after 7 business days from the date notification was issued.

14 Repeal RSA 313-A:8, VII, relative to rulemaking authority for matters of administration.

15 Prospective Repeal. RSA 313-A:26, relative to the tanning facility advisory committee, is repealed.

16 Effective Date.

I. Section 15 of this act shall take effect January 1, 2008.

II. The remainder of this act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill requires the board of barbering, cosmetology and esthetics to regulate tanning facilities. Adopted.

Report adopted and ordered to third reading.

**SB 199, revising the nurse practice act. OUGHT TO PASS WITH AMENDMENT**

Rep. Judson K. Dexter for Executive Departments and Administration: The amendment to revises the Nurse Practice Act (RSA 326-B) while making few substantive changes to the law. The most significant difference between current law and the proposed amendment is a shift of some important provisions from rule to statute. The amendment adds a scope of practice section for each of the categories of nursing (ARNP, RN, LPN and LNA) to RSA 326-B. Currently, the scope of practice of ARNPs is outlined in the administrative rules drafted by the Board of Nursing and approved by the Joint Legislative Committee on Administrative Rules. There is currently no scope of practice for the other categories of nursing in rule or in law. As is common with the regulatory statutes in place for other health care professions, the committee feels it is important to clearly designate the scope of practice for each category of nursing in statute. The scope of practice language included in the proposed amendment was submitted to the committee by the Board of Nursing. If there is a need to change any of this language in the future, further legislation will be required. Along the same vein, the proposed amendment contains an extensive provision designating how nursing activities may be delegated. The language in the amendment has been taken verbatim from the current rules. The amendment also adds a provision noting that continuing education is required for license renewal and specifies the number of hours of education required for each of the nurse practice categories. Currently, continuing education is addressed only in the nursing rules. The proposed amendment also contains changes to the manner in which fees are adopted by the Board of Nursing and makes a number of changes designed to make the statute easier to read. Vote 17-1.

**Amendment (2432h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Nurse Practice Act. RSA 326-B is repealed and reenacted to read as follows:

**CHAPTER 326-B  
NURSE PRACTICE ACT**

326-B:1 Purpose. In order to safeguard life, health and public welfare of the people of New Hampshire and in order to protect the people of the state from the unauthorized, unqualified, and improper application of services by individuals in the practice of nursing, it is necessary that a regulatory authority be established and adequately funded. To further this policy, the practice of nursing shall be regulated through the New Hampshire board of nursing, and such board shall have the power to enforce the provisions of this chapter.

326-B:2 Definitions.

I. "Advanced registered nurse practitioner (ARNP)" means a registered nurse currently licensed in New Hampshire who is additionally licensed by the board in one or more practice specialties pursuant to RSA 326-B:13.

II. "Board" means the New Hampshire board of nursing established in RSA 326-B:3.

III. "Certified graduate nurse (CGN)" means those graduate nurses exempted by chapter 265, laws of 1959 and certified prior to January 1, 1975.

IV. "Contact hour" means a minimum of 50 minutes of organized learning.

V. "Continuing competence" means integrated learning designed to enhance nursing knowledge, judgment and skills beyond those achieved during the education or other preparation required to qualify for initial licensing.

VI. "Delegation" means the transfer of authority for the performance of a specific task from a licensed nurse authorized to perform the task to someone who does not have that authority when such transfer is authorized by this chapter or the rules adopted by the board.

VII. "Licensed nursing assistant" means an individual who holds a current license to provide client care under the direction of a registered nurse or licensed practical nurse.

VIII. "Licensed practical nurse (LPN)" means an individual who holds a current license to practice practical nursing as defined in paragraph XII.

IX. "Medication nursing assistant" means a licensed nursing assistant holding a currently valid certificate authorizing the delegation to the nursing assistant of tasks of medication administration.

X. "Nursing" means assisting clients or groups of clients to attain or maintain optimal health by implementing a strategy of care to accomplish defined goals and by evaluating responses to nursing care and medical treatment. Nursing includes basic health care that helps both clients and groups of clients cope with difficulties in daily living associated with their actual or potential health or illness status and also those nursing activities that require a substantial amount of scientific knowledge or technical skill. Nursing also includes, but is not limited to:



- (a) Promoting an environment conducive to well being.
- (b) Planning and implementing independent nursing strategies and prescribed treatment in the prevention and management of illness, injury, disability and achievement of a dignified death.
- (c) Providing health counseling and teaching.
- (d) Collaborating on aspects of the health regimen.
- (e) Advocating for the client.

XI. "Nursing-related activities" means client care provided by a licensed nursing assistant directed by an ARNP, an RN, or an LPN.

XII. "Practical nursing" means the practice of nursing as defined in paragraph VIII by a nurse who:  
(a) Uses sound nursing judgment based on preparation, knowledge, skills, understanding, and past nursing experience.

(b) Works under the direction of a registered nurse, advanced registered nurse practitioner, dentist or physician.

(c) Functions as a member of a health care team and contributing to the assessment, planning, implementation and evaluation of client care.

XIII. "Registered nurse (RN)" means an individual who holds a current license to practice registered nursing as defined in paragraph XIV.

XIV. "Registered nursing" means the application of nursing knowledge, judgment, and skill drawn from broad in-depth education in the biological, psychological, social, and physical sciences in assessing and diagnosing the health status of a client, and in planning, implementing and evaluating client care which promotes the optimum health, wellness and independence of the individual, the family and the community.

#### 326-B:3 Board of Nursing.

I. The board of nursing shall be composed of 11 members to be appointed by the governor with the consent of the council. Any interested individual, association, or entity may make recommendation to the governor. The members of the board shall include 5 registered nurses, one of whom shall be an advanced registered nurse practitioner, 2 licensed practical nurses, 2 licensed nursing assistants, and 2 representative members of the public. The terms of members shall be staggered as determined by the governor and council. All terms shall be for 3 years, and no member of the board shall be appointed to more than 2 consecutive terms.

II. Each registered nurse member shall be a resident of this state, licensed in good standing under the provisions of this chapter, currently engaged in the practice of nursing as a registered nurse, and shall have had no fewer than 5 years of experience as a registered nurse, at least 3 of which shall have immediately preceded appointment. Registered nurse members of the board shall represent the various areas of nursing practice including education, administration, and clinical practice.

III. The licensed practical nurse members of the board shall be residents of this state, licensed in good standing under the provisions of this chapter, currently engaged in the practice of nursing, and shall have had no fewer than 5 years of experience as a licensed practical nurse, at least 3 of which shall have immediately preceded the date of appointment.

IV. The licensed nursing assistant members of the board shall be residents of, and licensed in good standing in, New Hampshire, and currently engaged in nursing-related activities. These members shall have a minimum of 5 years of experience as a licensed nursing assistant, at least 3 of which shall have immediately preceded the date of their appointment.

V. The public members shall be residents of the state of New Hampshire who are not, and never have been, members of the nursing profession or the spouse of any such person. The public members shall not have, and shall never have had, a material financial interest in either the provision of nursing services or an activity directly related to nursing, including the representation of the board or its predecessor or the profession for a fee at any time during the 5 years preceding the date of appointment.

VI. No more than one board member shall be associated with a particular agency, corporation or other enterprise or subsidiary at one time.

VII. Each member of the board shall be compensated at the rate of \$100 for attendance at a regular board meeting and \$50 for each other day actually engaged in official duties of the board, and shall be reimbursed for actual and necessary expenses incurred in the discharge of official duties, including travel at the state employee mileage rate.

VIII. An appointee to a full term on the board shall be appointed by the governor with the consent of the council before the expiration of the term of the member being succeeded and shall

become a member of the board on the first day following the appointment expiration date of the previous appointee. Appointees to unexpired portions of full terms shall become members of the board on the day following such appointment, and shall serve the unexpired term and then be eligible to serve 2 full 3-year terms.

IX. The governor may remove any member from the board for neglect of any duty under RSA 326-B:4 or for incompetence or unprofessional or dishonorable conduct. Any person may file a complaint against a board member with the department of health and human services. The provisions of RSA 4:1 controlling the removal of public officials from office shall be followed in dismissing board members.

X. All members of the board and its agents or employees shall enjoy immunity from individual civil liability while acting within the scope of their duties as board members, agents or employees, as long as they are not acting in a wanton or reckless manner.

XI. Board meetings shall be open to the public. In accordance with RSA 91-A:3 the board may conduct part of a meeting in nonpublic session.

XII. The New Hampshire board of nursing shall be administratively attached, under RSA 21-G:10, to the department of health and human services.

#### 326-B:4 Powers and Duties of the Board.

I. The board shall have the power to:

- (a) Regulate the practice of nursing and take disciplinary action authorized by this chapter.
- (b) Adopt, amend, and repeal administrative rules as authorized by this chapter.
- (c) Appoint and employ a qualified registered nurse to serve as executive director.
- (d) Delegate to the executive director those activities which expedite the functions of the board, including the employment of professional and support staff, investigators, legal counsel, and other personnel necessary for the board to carry out its functions.

(e) Employ or contract with any entity for the purpose of administering examinations authorized by this chapter.

(f) Gather and report to the public statistical information regarding, but not limited to, the education and licensure of nurses and nursing assistants.

(g) Maintain membership in national organizations advancing the practice of nursing.

(h) Provide consultation and conduct conferences, forums, studies, and research on nursing education and practice.

II. The board shall have the duty to:

(a) Interpret and enforce the provisions of this chapter and of the rules implementing it.

(b) Maintain a record of all persons and education programs regulated by the board.

(c) Determine and collect reasonable fees authorized by this chapter.

(d) Administer the state registry for nursing assistants in compliance with the Omnibus Budget Reconciliation Act of 1987, sections 1819 and 1919 of the Social Security Act.

#### 326-B:5 Criminal Record Checks.

I. Every applicant for initial licensure or license renewal or reinstatement under this chapter shall submit to the board a notarized criminal conviction record release authorization form, as provided by the division of state police, which authorizes the release of his or her criminal conviction record to the board pursuant to RSA 106-B:14.

II. Upon receipt of a notarized criminal conviction record release authorization form from the board or from an applicant for licensure or license renewal or reinstatement under this chapter, the division of state police shall conduct a criminal conviction record check pursuant to RSA 106-B:14 and provide the results to the board.

III. The board shall review the criminal record information prior to making a licensing decision and shall maintain the confidentiality of all criminal conviction records received pursuant to this section.

#### 326-B:6 Administration By Executive Director.

I. The executive director shall have at least the following qualifications:

(a) Be eligible for licensure to practice as a registered nurse in this state; and

(b) Hold a master's degree in nursing or hold a master's degree in a related field and a baccalaureate degree in nursing.

II. The executive director shall be responsible for:

(a) The performance of the administrative responsibilities of the board.

(b) Employment of personnel needed to carry out the functions of the board.

(c) The performance of any other duties the board may direct.

**326-B:7 Collection and Expenditure of Funds.** The board shall receive and expend funds provided such funds are received and expended for the pursuit of the objectives authorized by this chapter. Fees, fines and administrative charges other than those collected pursuant to RSA 326-B:8 shall be deposited in the general fund.

**326-B:8 Nursing Assistant Fees and Fines; Continual Appropriation.**

I. The nursing assistant fund is established in the state treasury and continually appropriated to the board of nursing which shall administer the fund. The fund shall be used only for administration of the nursing assistant component and expenses relating to that component.

II. All fees, charges, and fines relating to nursing assistants shall be credited to the fund.

**326-B:9 Fees; Charges.**

I. The board shall charge fees for the issuance, renewal, and reinstatement of all licenses, specialty licenses and certificates authorized by this chapter. The board shall recover at least 125 percent of its direct expenses through licensee fees, fines and administrative charges.

II. The board may provide the following services and make administrative charges for them:

(a) The administration of examinations required by this chapter.

(b) Verification of licensure status.

(c) The sale of lists of licensees who have given their written authorization to have their names included on such lists.

(d) The actual costs of a criminal conviction record check required pursuant RSA 326-B:5.

**326-B:10 Public Hearings on Fees.**

I. The board shall be exempt from the requirements, procedures and provisions of RSA 541-A with respect to the establishment of fees.

II. The board shall review all fees established under this chapter on a biannual basis. The board shall hold at least one public hearing on all proposed changes to such fees. All interested parties shall be afforded reasonable opportunity to testify and to submit data, views or arguments in writing or in electronic format, relative to proposed fee changes. All materials submitted in writing shall be signed by the person who submits them. The board shall post the date, time and location of the public hearing and the cut-off date for the submission of written testimony at least 20 days prior to the hearing date. Such posting shall be on the board's website and in the newsletter published by the board. Copies of the proposed fee changes shall be available to the public at least 5 days prior to the hearing. A period of at least 10 days after the hearing shall be provided for the submission of materials in writing or electronic format.

III. Each hearing shall be attended by a quorum of the board. A public comment hearing on fees may be postponed in the event of inclement weather or a lack of a quorum of the board. If such hearing is postponed, the board shall provide at least 5 days' notice of the rescheduled hearing.

IV. The board shall consider all public input that has been submitted under the provisions of this section when voting on any changes to fees established under this chapter.

**326-B:11 Rulemaking Authority.**

I. The board shall adopt rules in accordance with RSA 541-A on the following topics:

(a) Application procedures and eligibility requirements, in addition to those set forth in this chapter, for the issuance of all initial, temporary and renewal licenses, specialty licenses and certificates issued by the board, including the issuance of such licenses to applicants holding a currently valid license or other authorization to practice in another jurisdiction.

(b) Application procedures and eligibility requirements, in addition to those set forth in this chapter, for the reinstatement of licenses after lapse and after disciplinary action.

(c) Approval of national certifying bodies issuing specialty certifications required for licensure as an advanced registered nurse practitioner.

(d) The standards to be met by education programs designed to prepare applicants to qualify for licensure or certification in any of the disciplines regulated by the board, including the time period within which noncompliance must be corrected before such approval is withdrawn.

(e) The standards to be met by education programs designed to prepare LPNs in intravenous therapy and by programs designed to prepare LNAs to perform tasks not addressed in the basic curriculum required for licensure.

(f) The determination of disciplinary sanctions authorized by this chapter, including the determination of administrative fines.

(g) The administration of examinations authorized by this chapter, and the manner in which information regarding the contents of any licensing examinations may be disclosed, solicited, or compiled.

(h) Ethical standards for the practice of nursing and nursing-related activities.

(i) Continuing competence requirements.

(j) Designations that may be used by persons regulated by the board and retired persons regulated by the board.

#### 326-B:12 Scope of Practice; Advanced Registered Nurse Practitioner.

I. Only those licensees duly authorized under RSA 326-B:13 shall perform those common customary advanced nursing practices noted in this section. ARNPs are authorized to prescribe medications in the ARNP formulary established by the joint health council. The ARNP shall be competent as set forth below to practice independently in accordance with a scope of practice established by national standards in the following specialty areas:

- (a) Certified nurse midwife.
- (b) Pediatric nurse practitioner.
- (c) Family nurse practitioner.
- (d) Women's health nurse practitioner.
- (e) Adult nurse practitioner.
- (f) Geriatric nurse practitioner.
- (g) School nurse practitioner.
- (h) Psychiatric/mental health nurse practitioner.
- (i) Emergency/trauma nurse practitioner.
- (j) Neo-natal nurse practitioner.
- (k) Certified registered nurse anesthetist.
- (l) Acute care nurse practitioner.
- (m) Community health nurse practitioner.
- (n) Reproductive health nurse practitioner.
- (o) Oncology nurse practitioner.
- (p) Palliative care nurse practitioner.
- (q) Wound care nurse practitioner.

#### II. The ARNP shall have the ability to:

- (a) Elicit and record physical and mental health status, psychosocial history, including review of bodily systems.
- (b) Perform physical examination.
- (c) Initiate appropriate diagnostic tests to screen or evaluate the care-recipient's current health status.
- (d) Assess findings of history, review of systems, physical examination and diagnostic tests, and formulate a diagnosis prior to implementing a treatment regimen.
- (e) Identify health problems and learning needs of the care recipient.
- (f) Plan, teach, promote, and manage physical and mental health-care in a continuous program.
- (g) Implement and manage treatment regimens and administer, prescribe, dispense and procure pharmacological agents.
- (h) Arrange appropriate referrals.
- (i) Initiate appropriate emergency treatment in life-threatening or unusual situations in order to stabilize the care-recipient.
- (j) Provide other functions within the ARNPs scope of practice for which the ARNP is educationally and experientially prepared.

#### 326-B:13 Advanced Registered Nurse Practitioner; Specialty License.

I. The board may issue one or more specialty licenses to applicants meeting the qualifications stated in paragraph III. Holding one or more currently valid specialty licenses qualifies the holder as an advanced registered nurse practitioner.

#### II. An applicant for licensure in a specialty shall:

- (a) Hold a currently valid license as a registered nurse;
- (b) Submit a completed application for specialty licensure and pay the specialty license fee;
- (c) Have graduated after July 1, 2004 with a master's degree earned in an advanced registered nurse practitioner education program accredited by a national accrediting body or have graduated before July 1, 2004 from an advanced registered nurse practitioner education program accredited by a national accrediting body; and

(d) Be currently certified by a board-approved national certifying body in the specialty for which the applicant was educated.

III. An applicant for renewal of a specialty license issued after September 30, 1984 shall:

(a) Submit a completed application for renewal and pay the renewal fee;

(b) Hold, and have since first specialty licensure maintained, a currently valid license as a registered nurse;

(c) Be, and have since first specialty licensure continued to be, certified by a board-approved national certifying body;

(d) Meet any continuing competence requirements set by the board; and

(e) Meet any continuing education requirements established under this chapter.

IV. An applicant for renewal of a specialty license issued before September 30, 1984 shall meet the requirements of paragraph III except that the applicant shall not be required to be and continue to have been certified by a board-approved national certifying body.

V.(a) An advanced registered nurse practitioner shall have plenary authority to possess, compound, prescribe, administer, and dispense and distribute to clients controlled and non-controlled drugs in accordance with the formulary established by the joint health council and within the scope of the ARNP's practice as defined by this chapter.

(b) Such plenary authority may be denied, suspended, or revoked by the board after notice and the opportunity for hearing, upon proof that the authority has been abused.

326-B:14 Joint Health Council.

I.(a) The joint health council shall consist of 9 members as follows: 3 licensed, practicing advanced registered nurse practitioners, appointed by the board of nursing; 3 licensed, practicing physicians who work with advanced registered nurse practitioners, appointed by the board of medicine; and 3 licensed clinical pharmacists who are practicing clinical pharmacists, appointed by the board of pharmacy. In no case shall a member of the joint health council be a member of the member's appointing board.

(b) The chairmanship of the council shall rotate annually among the appointees of the 3 respective boards. Administrative expenses shall be assumed, and administrative support services provided, by the board of nursing.

(c) Members of the council shall be appointed for 3-year terms and shall serve no more than 2 terms.

II. The council shall meet not less than once every 3 months to discuss matters pertinent to the ARNP formulary and matters of mutual concern to the board of medicine, the board of nursing and the board of pharmacy, unless there are no agenda items. Any council member may submit items to be considered by the council. Any council member may request that an item submitted for consideration by the council include relevant scientific information from recognized professional publications. A denial of a request to include a drug in the formulary or a decision to further restrict a drug already approved by the council shall be issued in writing and shall include relevant scientific information from recognized professional publications.

III. The duties of the joint health council shall include, but not be limited to, determining the type of ARNP formulary, exclusionary, inclusionary or other, and adding to or altering the list of controlled and non-controlled molecular entities in the ARNP formulary. The council shall render decisions on such additions or alterations within 3 months of initial consideration unless there is a request for additional scientific information. Appeals of decisions shall be submitted to the council in writing for further deliberation by the council. The ARNP formulary shall be updated at least annually and shall be available in paper and electronic format from the board of nursing, the board of medicine, and the board of pharmacy.

IV. Meetings of the joint health council shall be open to the public and conducted in accordance with the provisions of RSA 91-A. Meetings shall be conducted in a building owned or leased by the state and situated in Concord. Notice of the time and place of each meeting shall be posted in the house and senate calendars at least 30 days prior to the meeting date.

326-B:15 Scope of Practice; Registered Nurse.

I. Practice as a registered nurse means the full scope of nursing, with or without compensation or personal profit, that incorporates caring for all clients in all settings; is guided by nursing standards and evidence-based practice guidelines developed by a nationally-recognized authority and approved by the board, and shall be limited to:

(a) Providing comprehensive nursing assessment of the health status of clients, families, groups and communities.

(b) Collaborating with a health care team to develop an integrated client-centered plan of health care.

(c) Developing a plan of nursing strategies to be integrated within the client-centered health care plan that establishes nursing diagnoses, setting goals to meet identified health care needs, prescribing nursing interventions, and implementing nursing care through the execution of independent nursing strategies and prescribed medical regimen.

(d) Delegating and assigning nursing interventions to implement the plan of care.

(e) Providing for the maintenance of safe and effective nursing care rendered directly or indirectly.

(f) Promoting a safe and therapeutic environment.

(g) Providing health teaching and counseling to promote, attain and maintain the optimum health level of clients, families, groups and communities.

(h) Advocating for clients, families, groups and communities by attaining and maintaining what is in the best interest of the client or group.

(i) Evaluating responses to interventions and the effectiveness of the plan of care.

(j) Communicating and collaborating with other health care professionals in the management of health care and the implementation of the total health care regimen within and across care settings.

(k) Acquiring and applying critical new knowledge and technologies to practice domain.

(l) Managing, supervising and evaluating the practice of nursing.

(m) Teaching the theory and practice of nursing.

(n) Participating in the development of policies, procedures and systems to support the client.

(o) Other nursing services that require education and training prescribed by the board and in conformance with national nursing standards.

Additional nursing services shall be commensurate with the registered nurse's experience, continuing education and demonstrated competencies.

III. Each registered nurse is accountable to clients, the nursing profession and the board for complying with the requirements of this act and the quality of nursing care rendered, and for recognizing limits of knowledge and experience and planning for management of situations beyond the nurse's experience.

#### 326-B:16 Scope of Practice; Licensed Practical Nurse.

I. Practice as a licensed practical nurse means a directed scope of nursing practice, with or without compensation or personal profit, under the supervision of a registered nurse, advance registered nurse practitioner, licensed physician or other health care provider authorized by the state to delegate health care activities and functions. Such practice is guided by nursing standards developed by a nationally-recognized authority and approved by the board, and shall be limited to:

(a) Collecting data and conducting focused nursing assessments of the health status of clients.

(b) Planning nursing care episode for clients with stable conditions.

(c) Participating in the development and modification of the comprehensive plan of care for all types of clients.

(d) Implementing appropriate aspects of the strategy of care within the LPN scope of practice.

(e) Participating in nursing care management through delegating, assigning and directing nursing interventions that may be performed by others, including other LPNs, that do not conflict with this chapter.

(f) Maintaining safe and effective nursing care rendered directly or indirectly.

(g) Promoting a safe and therapeutic environment.

(h) Participating in health teaching and counseling to promote, attain and maintain the optimum health level of clients.

(i) Serving as an advocate for the client by communicating and collaborating with other health service personnel.

(j) Participating in the evaluation of client responses to interventions.

(k) Communicating and collaborating with other health care professionals.

(l) Providing input into the development of policies and procedures.

(m) Other nursing services that require education and training prescribed by the board and in conformance with national nursing standards.

Additional nursing services shall be commensurate with the licensed practical nurse's experience, continuing education and demonstrated licensed practical nurse competencies.

II. Each nurse is accountable to clients, the nursing profession, and the board for complying with the requirements of this chapter and the quality of nursing care rendered and for recognizing limits of knowledge and experience and planning for management of situations beyond the nurse's expertise.

III. Licensed practical nurses who have successfully completed the curriculum of a board-approved LPN intravenous therapy course may administer intravenous solutions under the direction of a physician or dentist, or as delegated by a registered nurse. LPNs shall be instructed that they are accountable and responsible for activities delegated to them. LPNs shall only perform intravenous therapy for clients that are 13 years old or older.

**326-B:17 Qualifications for Licensure to Practice as a Registered Nurse or a Licensed Practical Nurse.**

I. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who has never been licensed or who holds a currently valid license issued by a foreign jurisdiction other than a Canadian jurisdiction shall:

- (a) Submit a completed application and pay the license fee.
- (b) Be a graduate of a board-approved nursing education program or a program that is determined by the board to be comparable to a board-approved nursing education program.
- (c) Pass a national examination approved by the board.
- (d) Be of a good character as character relates to the practice of nursing.
- (e) Have complied with continuing competence requirements, if applicable.

II. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who holds or has held a license issued by another state shall meet the requirements of paragraph I, except that an applicant who has passed a national examination approved by the board shall not be required to take the examination again.

III. An applicant for licensure to practice as a registered nurse or a licensed practical nurse who received nursing education in Canada and was never licensed by any state shall:

- (a) Meet the requirements of paragraph I; or
- (b) Meet the requirements of paragraph I (a), (d) and (e), have graduated from a Canadian nursing education program, and demonstrate that:

(1) Between the years 1939 and 1970 the applicant passed the English version of the National League for Nursing Board Test Pool Examination;

(2) Between the years 1970 and 1980 the applicant took the English version of the Canadian Nurses' Association testing service 5-part examination and received a minimum passing score of 350 in each of the following topics: medical nursing, surgical nursing, pediatric nursing, maternity nursing, and psychiatric nursing; or

(3) Since the year 1980 the applicant took the English version of the Canadian Nurses' Association testing service comprehensive examination and received a minimum passing score of 400.

**326-B:18 Scope of Practice; Licensed Nursing Assistant.** Practice as a licensed nursing assistant means a scope of nursing assistant practice, with or without compensation or personal profit, under the supervision of the RN, ARNP, or LPN, as defined in RSA 326-B.

I. A licensed nursing assistant is responsible for competency in the nursing assistant curriculum approved by the board. Licensed nursing assistants are authorized to administer medication when they hold a currently valid certificate of medication administration and under the circumstances established by the board through rules adopted pursuant to RSA 541-A.

II. Following successful completion of the curriculum, a nursing assistant shall be able to:

- (a) Form a relationship, communicate, and interact effectively with individuals and groups.
- (b) Demonstrate comprehension related to individuals' emotional, mental, physical, and social health needs through skillful, direct nursing-related activities.
- (c) Assist individuals to attain and maintain functional independence in a home or health-care facility.
- (d) Exhibit behaviors supporting and promoting care-recipients' rights.
- (e) Demonstrate observational and documenting skills required for reporting of people's health, safety, welfare, physical and mental condition, and general well-being.
- (f) Provide safe nursing-related activities under the supervision of a registered or licensed practical nurse.

III. Licensed nursing assistants may perform tasks not addressed in the basic curriculum required for licensure if they obtain additional training in the performance of such tasks through programs approved by the board. Additional tasks can be delegated provided:

(a) The task has been properly delegated to the nursing assistant by the supervising licensed nurse pursuant to RSA 326-B:22.

(b) The task has not been made exempt from nursing assistant practice under this chapter.

(c) The policies of the employing health care facility allow the delegation of the task to a LNA.

### 326-B:19 Qualifications for Licensure to Practice as a Licensed Nursing Assistant.

I. An applicant for licensure to practice as a licensed nursing assistant who is not licensed in any other state shall:

(a) Submit a completed application and pay the license fee established by the board;

(b) Be a graduate of a board-approved nursing assistant education program or a program that is determined by the board to be comparable to a board-approved nursing assistant education program;

(c) Pass a national or regional examination approved by the board;

(d) Be of a good character as character relates to the practice of nursing-related activities; and

(e) Have complied with continuing competence requirements, if applicable.

II. An applicant for licensure to practice as a licensed nursing assistant who holds a current and valid license or other authorization to practice nursing-related activities in another state shall meet the requirements of paragraph I, except that the applicant shall either have passed a national or regional examination approved by the board or passed the last examination taken for licensure or other authorization to practice in any other state. The applicant shall submit verification of current and valid licensure or other authorization to practice issued by another state. The applicant shall not have committed in any other state acts or omissions which are grounds for disciplinary action under this chapter and for which the board determines that insufficient restitution was made or insufficient disciplinary action taken by the disciplining state.

### 326-B:20 Qualifications; Medication Nursing Assistant.

I. Practice as a medication nursing assistant means a scope of nursing assistant practice, with or without compensation or personal profit, as a licensed nursing assistant who holds a currently valid certification authorizing the delegation of medication administration under the supervision of the RN, ARNP or LPN as defined in RSA 326-B.

II. A medication nursing assistant shall be proficient in the following methods of medication administration:

(a) Topical.

(b) Oral.

(c) Nasal.

(d) Ocular.

(e) Auricular.

(f) Vaginal.

(g) Rectal.

(h) Gastrostomy or jejunostomy tube.

### 326-B:21 Certificate of Medication Administration for Licensed Nursing Assistants.

I. The board may issue a certificate of medication administration to a currently licensed nursing assistant who:

(a) Has participated in and completed a board-approved medication administration education program;

(b) Has passed an examination approved by the board; and

(c) Has paid the certification fee.

II. Certification may be renewed on a biennial basis in accordance with RSA 326-B:26.

### 326-B:22 Delegation of Nursing Activities and Tasks.

I. A nurse holding a currently valid license as a registered nurse or a practical nurse may delegate specific nursing activities and tasks under the circumstances, and in accordance with the constraints, set forth in this section. The following licensees shall have the authority to delegate tasks of client care:

(a) Any currently licensed registered nurse or advanced registered nurse when practicing registered nursing; and



(b) Any currently licensed practical nurse when practicing practical nursing directed by an ARNP, RN, dentist, or physician.

II. Licensed nursing assistants shall not delegate tasks of client care.

III. This section applies to the delegation of tasks of client care by all licensees except for licensees exempted by RSA 326-B:43.

IV. Any individual shall be eligible to receive the delegation of a task of client care not involving the administration of medication only if such individual has competence to perform the specific task. For tasks of client care involving the administration of medication, the following persons shall be eligible to be delegates:

(a) Currently licensed registered nurses and advanced registered nurse practitioners;

(b) Currently licensed practical nurses when:

(1) The method of medication administration is not intravenous; or

(2) The method of medication administration is intravenous, only in compliance with RSA 326-B:16, III;

(c) Unlicensed assistive personnel who have competence to perform the specific task to be delegated;

(d) Currently licensed nursing assistants when they hold a certificate of medication administration issued in accordance with the provisions of this chapter.

V. The following limitations on the delegation of tasks of client care shall apply:

(a) No delegation shall be made of any task of client care which is not within the competence of the delegating licensee.

(b) A registered nurse or licensed practical nurse shall not delegate any task of client care for which the delegate does not have competence.

(c) A delegation of a task of client care involving the administration of medication shall specify:

(1) The medication to be administered.

(2) The dosage, route, and time of the medication to be administered.

(3) The client to whom the medication is to be administered.

VI. Before delegating a task of client care, a delegating licensee shall determine:

(a) The intended delegate's competence to perform the task; and

(b) In the case of an intended delegation to a licensed nursing assistant of a task involving the administration of medication, the status of the nursing assistant's license and certificate of medication administration.

VII. In exercising such discretion in delegation as is permitted by this chapter a licensee intending to delegate a task of client care shall take into account:

(a) The degree of the intended delegate's competence to perform the task;

(b) Whether the client is stable; and

(c) Whether the client's nursing needs are currently changing.

VIII. A delegating licensee shall introduce the delegate to the client.

IX. A delegating licensee shall supervise the delegate's performance of the delegated task. Such supervision shall be continual or intermittent as warranted by the following:

(a) The complexity of the delegated task of client care.

(b) The condition of the client.

(c) The degree of the competence of the delegate.

(d) The familiarity of the delegate with the environment in which the task is to be performed.

X. A delegating licensee shall reevaluate the nature of the supervision as often as the condition of the client changes.

XI. A delegating licensee shall rescind a delegation if:

(a) An evaluation shows that the client's condition has changed in a way that renders the delegation no longer safe or appropriate;

(b) The delegate proves unwilling or incompetent to perform the delegated task;

(c) The client objects to the delegation; or

(d) The delegating licensee is no longer able to supervise the performance of the delegated task.

XII. When rescinding a delegation, the licensee shall communicate the rescission clearly to the delegate to whom the task was originally delegated and to the administrative supervisor of the delegate, if any.

XIII. A licensee shall report to the board the fact of anyone's attempting to coerce the delegation of a task of client care in violation of RSA 326-B:24, II.

XIV. A licensee to whom a specific task of client care has been delegated shall:

(a) Perform that task in accordance with this chapter and its implementing rules.

(b) Wear a badge showing the delegate's name and title when performing the delegated task of client care; and

(c) Report to the board the fact of any delegation which the delegate believes to be beyond the competence of the delegate.

326-B:23 Delegation; Administration of Medication.

I. A nurse holding a currently valid license as a registered nurse or a practical nurse may delegate tasks involving the administration of medication to a licensed nursing assistant holding a currently valid certificate as a medication nursing assistant under the circumstances, and in accordance with the constraints, set forth in this section.

II. A licensed nursing assistant shall perform a task involving the administration of medication if:

(a) The task has been delegated to the licensed nursing assistant by a licensed nurse in accordance with the provisions of this chapter; and

(b) The delegation is not prohibited by this section.

III. A licensed nursing assistant shall not perform a task involving the administration of medication if:

(a) The task requires the determination of the client's need for the medication, the calculation of the dosage of the medication, or the conversion of dosage;

(b) The delegating nurse is unavailable to monitor the progress of the client and the effect on the client of the medication; or

(c) The client is not stable or has changing nursing needs.

IV. A licensee intending to delegate, or having delegated, a task involving medication administration to a licensed nursing assistant shall comply with the requirements of this chapter.

V. A licensee who, having delegated a task involving medication administration to a licensed nursing assistant, has any reason to believe that the delegate may have made an error in the administration of medication shall:

(a) Immediately ascertain whether the error occurred; and

(b) If the error occurred or its occurrence can not be immediately ascertained, take the following steps:

(1) Inform the administrator of the facility, institution, or agency in which the error occurred;

(2) Document the error in the client's clinical record;

(3) Complete any report required by the policies or rules of the facility, institution, or agency within the required time period;

(4) Determine whether immediate action is required to be taken with respect to the delegation of tasks to the licensed nursing assistant who made the error; and

(5) Maintain a record of errors in medication administration and actions taken by the delegating licensee for medication nursing assistant program site review.

VI. A licensed nursing assistant who has any reason to believe that he or she has made an error in the administration of medication shall:

(a) Immediately report to the following people a possible or known error in the administration of medication:

(1) The licensee who delegated the task involving the administration of medication; and

(2) The licensed nursing assistant's immediate supervisor in the facility, institution or agency in which the error occurred, if such supervisor is someone other than the delegating licensee; and

(b) Assist the delegating licensee and the immediate supervisor in the setting in which the error occurred in the completion of any document for reporting error which may be required to be completed.

326-B:24 Delegation; Circumstances Not Subject to Disciplinary Action.

I. A licensee who delegates or has delegated a specific nursing activity or task in compliance with this chapter shall not be subject to disciplinary action because of the performance of the person to whom the nursing activity or task is or was delegated.

II. No person may coerce a registered nurse or licensed practical nurse into compromising client safety by requiring the nurse to delegate a nursing activity or task when the nurse determines

that it is inappropriate to do so. A licensee shall not be subject to disciplinary action for refusing to delegate nursing activities or tasks or refusing to provide training related to such delegation when the licensee has determined that such delegation may compromise client safety.

**326-B:25 Duration of Initial Licenses.** All initial licenses, other than temporary licenses, are valid from the date of issuance until midnight of the date of birth of the licensee in the year following the year in which the license was issued unless their validity has been continued in accordance with RSA 326-B:26, III.

**326-B:26 Biennial Renewal of Licenses; Lapsed Licenses.**

I. All license renewals shall be on a biennial basis.

II. Any person licensed under this chapter who intends to continue practicing nursing or nursing-related activities shall, by midnight on his or her date of birth in the renewal year, complete continuing education requirements, complete continuing competence requirements, pay the renewal fee and submit a completed application for license renewal. The payment of the renewal fee and the completed application must be at the board's office no later than midnight on the applicant's date of birth in the renewal year. The board shall mail a renewal application form with instructions to each licensee at the address on file with the board at least 30 days before the licensee's application deadline. However, failure by the licensee to receive the application form with instructions shall not relieve the licensee of the obligation to meet the deadline. The board shall not renew any license issued under this chapter unless it is satisfied that the applicant for renewal is of good character, as character relates to nursing or nursing-related activities.

III. If an applicant for license renewal has met the requirements of paragraph II, a license previously issued to the applicant under this or a predecessor chapter shall continue valid and in effect pending the decision by the board on the application for renewal.

IV. If an applicant for license renewal has not met the requirements of paragraph II, any license previously issued to the applicant under this or a predecessor chapter shall lapse at midnight of the applicant's date of birth in the renewal year. A holder of a lapsed license shall not practice nursing or nursing-related activities until the license has been reinstated.

V. Application for reinstatement of a license lapsed under this section shall include payment of a reinstatement fee and be made, and granted or denied, in accordance with rules adopted by the board pursuant to RSA 541-A.

**326-B:27 Temporary License.**

I. The board may issue temporary licenses valid for no more than 180 days to applicants described in paragraph II, and may renew such temporary licenses in accordance with rules adopted pursuant to RSA 541-A. A temporary license shall become void on the date the board denies the permanent license sought by the holder of the temporary license.

II. The following applicants for licensure as registered nurses or practical nurses may be issued temporary licenses:

(a) Unlicensed applicants for licensure under paragraph I and applicants for licensure under RSA 326-B:17, III who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(b) If they can demonstrate proficiency in English, currently foreign-licensed applicants for licensure under RSA 326-B:17, I who have met all requirements for licensure except that they have not yet taken the required examination or the results of the examination are not yet available to the board.

(c) Applicants for licensure under RSA 326-B:17, II who have met all of the requirements of that paragraph and are awaiting the board's decision on their application for permanent licensure.

(d) Applicants for licensure under RSA 326-B:17, II who have met all requirements except for any continuing competence requirements applicable to them.

III. Applicants described in paragraph II who have received temporary licenses shall practice only under the supervision of a registered nurse currently licensed in New Hampshire.

**326-B:28 Obligations of Licensees.**

I. In response to board inquiries relevant to a licensee's status or practice of nursing or nursing-related activities, each licensee shall provide complete and truthful information.

II. Each licensee shall notify the board if a license is lost or stolen.

III. Each licensee shall notify the board of a change of name or address as soon as such change occurs.

IV. Each licensee shall report to the board those acts or omissions which are violations of this chapter or grounds for disciplinary action.

326-B:29 Continuing Education. Applicants for license renewal and license reinstatement after lapse shall complete continuing education as follows:

(a) An LNA, shall complete 12 contact hours of continuing education in programs approved by the board each year; provided that licensees who hold a certificate of medication administration, shall complete at least 4 hours of those 12 contact hours in medication administration.

(b) An LPN or an RN, shall complete 30 contact hours of continuing education every 2 years; or

(c) An ARNP, in addition to the continuing education requirements to renew or reinstate a license as an RN, shall complete 30 contact hours of continuing education every 2 years; 20 contact hours of which shall be specific to the specialty for which renewal or reinstatement is sought, and 5 contact hours of which shall be training in pharmacology appropriate to the specialty for which license renewal or reinstatement is sought.

326-B:30 Continuing Competence.

I. Applicants for first licensure, license renewal, or license reinstatement after lapse shall have or maintain continuing competence in their area of licensure and may be required to achieve and demonstrate such competence as a condition of licensure, license renewal or license reinstatement.

II. In addition, individuals seeking reinstatement of their licenses after disciplinary denial of license renewal, disciplinary suspension or disciplinary revocation or seeking the removal of disciplinary limitations placed on their licenses may be required to achieve and demonstrate continuing competence as a condition of license reinstatement or the removal of limitations.

326-B:31 Education Programs.

I. The board shall approve, disapprove, and withdraw approval for education programs intended to prepare students for licensure or for certification. An educational institution or other entity conducting such an education program shall comply with rules consistent with paragraphs II and III and adopted by the board pursuant to RSA 541-A.

II. With respect to the education programs named in paragraph I, the board is authorized to establish:

(a) Minimum qualification of faculty and administrators.

(b) The content of the curriculum.

(c) The minimum number of hours of instruction and clinical work.

(d) Any standards to be met for successful completion of the programs which may be additional to any required by the entities conducting the programs.

(e) Procedures for initial, full, and conditional approval of the programs by the board.

(f) Qualifications for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which qualifications may be additional to any required by the entities conducting the programs.

(g) Application procedures for entrance into education programs intended to prepare licensed nursing assistants to become medication nursing assistants, which procedures may be additional to any required by the entities conducting the programs.

(h) Administrative organization of education programs intended to prepare licensed nursing assistants to become medication nursing assistants.

(i) The content of, and standards for passing, examinations administered by education programs intended to prepare licensed nursing assistants to become medication nursing assistants.

III. Education programs shall include:

(a) Curricular topics consistent with the knowledge and skills required for the licensure or certification and for the practice for which they are designed to prepare.

(b) Instruction administered and organized in accordance with established educational principles.

(c) Content relating to the biological, physical, social, behavioral and nursing and medical sciences.

IV. The board shall periodically survey all education programs intended to prepare students for licensure or certification under this chapter to determine compliance with this section and the rules adopted by the board. If an education program is in overall compliance, the board shall grant initial, full or conditional approval.

V. If the board determines that an education program does not comply with the requirements of this section and the rules adopted by the board, the board shall notify the education program of the specific areas of non-compliance.

VI. The board shall withdraw approval from any education program failing to correct specified areas of non-compliance within a time period established by rules adopted by the board, provided that such action shall be taken only after consultation with representatives of the program.

VII. Any education program conducted in another state shall be deemed to be an education program approved by the board if that program meets the requirements for approval established by this section and the boards, rules and the program has been approved by the regulatory authority of its state.

**326-B:32 Duty to Warn of Violent Acts of Client; Civil Liability.**

I. Any licensee, or person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment, has a duty to warn of, or to take reasonable precautions to provide protection from, a client's violent behavior when the client has communicated to the registered nurse practitioner or the person working under an advanced registered nurse licensee, or person working under the supervision of a licensee, a serious threat of physical violence against a clearly identified or reasonably identifiable victim or victims, or a serious threat of substantial damage to real property.

II. The duty may be discharged by the licensee, or a person working under the supervision of a licensee to provide services that are customary and necessary for diagnosis or treatment by making reasonable efforts to communicate the threat to the victim or victims, notifying the police department closest to the client's or potential victim's residence, or obtaining civil commitment of the client to the state mental health system.

III. No monetary liability or cause of action based on breach of client privacy, confidentiality or any other ground shall arise from an act or communication done in a good faith effort to discharge a duty in accordance with paragraph II.

**326-B:33 Duties of Licensees Relating to Reports of Sexual Relations.**

I. In this section:

(a) "Former client" means a person who was diagnosed or treated by a licensee of the board within the 2 years prior to the sexual relations in question.

(b) "Sexual relations" means the intentional touching of any part of the client's body, or any verbal or non-verbal communication, for the purpose of sexual arousal or gratification of either party.

II. If, during the course of diagnosis or treatment by a licensee, a client alleges that another counselor or health care practitioner licensed by the board of nursing or any other state licensing or certifying agency has engaged with the client in sexual relations, the licensee shall have a duty to inform the client that the act reported by the client may be unprofessional or unethical and may subject the actor to disciplinary action by the actor's licensing or certifying agency.

III. No liability for breach of client confidentiality, slander or defamation, or other civil or criminal liability, shall arise from the disclosure by a licensee of information related to reported sexual relations between a client and any licensee of a state licensing or certifying agency when the disclosure is made in good faith and made to the board of nursing or any other state licensing or certifying agency.

IV. If the client of a licensee on the client's own initiative reports to the board of nursing sexual relations with a licensee of another state agency, the licensee shall provide support and advocacy to the client, either directly or indirectly through referral.

**326-B:34 Privileged Communications Between Licensees and Their Clients.**

I. Confidential communications between licensees and their clients are placed on the same basis as those provided by law between physician and patient, and, except as otherwise provided by law, no licensee shall be required to disclose such privileged communications. Confidential communications between a client of a licensee and any person working under the supervision of such licensee to provide services that are customary and necessary for diagnosis and treatment are privileged to the same extent as would be the same communications between the supervising licensee and the client.

II. This section shall not apply to disciplinary proceedings conducted by:

(a) The board under this chapter;

(b) The board of examiners of nursing home administrators under RSA 151-A:11; or

(c) Any other statutorily created health care occupational licensing board conducting disciplinary proceedings.

III. This section shall not apply to hearings conducted pursuant to RSA 135-C or RSA 464-A.

IV. This section shall also not apply to the release of blood samples and the results of laboratory tests for blood alcohol content taken from a person who is under investigation for driving a motor vehicle while such person was under the influence of intoxicating liquors or controlled drugs. The use and disclosure of such information shall be limited to the official criminal proceedings.

326-B:35 Confidentiality of Information. Any reports, information or records provided to the board by an individual, agency, facility, institution, or organization pursuant to this chapter shall be confidential insofar as the reports, information or records identify or permit identification of any client. However, the board may disclose confidential information:

I. When required to do so by this chapter or any other law.

II. When the information is relevant, during an adjudicative hearing or informal conference before the board.

III. In an agreement to settle a matter subject to adjudicative hearing, when the information constitutes or pertains to the basis of board action.

326-B:36 Emergency Treatment; Assisting the Board; Immunity From Civil Liability.

I. No person authorized to practice under this chapter or under the laws of any other state who, in good faith, renders emergency care at the scene of an emergency, which occurs both outside the place and the course of employment, shall be liable for any civil damages as a result of acts or omissions in rendering such emergency care, or as a result of any act or failure to act to provide or arrange for further medical treatment or care.

II. Any person acting in good faith shall be immune from civil liability to a licensee or an applicant for licensure for making any report or other information available to the board or assisting the board in carrying out any of its duties.

326-B:37 Disciplinary Action; Misconduct.

I. In order to assure the citizens of New Hampshire a reasonable standard of nursing care the board may undertake investigations and disciplinary proceedings:

(a) Upon its own initiative.

(b) Upon written complaint of any person which charges that a licensee has committed any acts of misconduct under paragraph III of this section and which specifies the grounds for such complaint.

(c) Upon notification by the licensing authority of another jurisdiction that a licensee's license has been disciplined in that jurisdiction.

II. The board shall conduct an investigation of any person licensed by the board who has had brought against him or her 3 reservable claims, written complaints, or actions for medical injury, or any combination thereof, which pertain to 3 different acts or events within any consecutive 5-year period. For the purpose of this paragraph, medical injury means any adverse, untoward or undesired consequences arising out of or sustained in the course of professional services rendered by a licensee, whether resulting from negligence, error or omission in the performance of such services; from rendition of such services without informed consent or in breach of warranty or in violation of contract; from failure to diagnose; from premature abandonment of a patient or of a course of treatment; from failure properly to maintain equipment or appliances necessary to the rendition of such services; or otherwise arising out of or sustained in the course of such services.

III. Misconduct sufficient to support disciplinary proceedings under this section shall include:

(a) Knowingly or negligently, whether or not intentionally, providing inaccurate material information to the board or failing to provide complete and truthful material information upon inquiry by the board, including during the process of license application.

(b) Conviction of a felony or any criminal act, not including traffic offenses, or failure to report such conviction within 30 days.

(c) Unethical or unprofessional conduct, including sexual relations with a client as defined in RSA 326-B:33.

(d) Failure to provide care with reasonable skill, safety and regard for patient rights, with or without actual patient injury.

(e) Actual or potential inability to render care with reasonable skill and safety by reason of illness, use of alcohol, drugs, chemicals, or any other material, or as a result of mental or physical conditions.

(f) Disciplinary action by a licensing authority in another jurisdiction.

(g) Failure to take appropriate action to safeguard individuals from incompetent counselors and health care practitioners, whether or not they are licensed in this state.

(h) Violations of any provision of this chapter, any substantive rule adopted by the board pursuant to RSA 541-A, or any other state or federal statute or substantive rule reasonably related to the licensee's ability to safely practice nursing or nursing-related activities.

IV. The board may refuse to renew or reinstate a license on disciplinary grounds, or take disciplinary action in any one or more of the following ways:

(a) By reprimand or by suspension, limitation, conditions or probation of a license for a period of time as determined reasonable by the board.

(b) By revocation of a license.

(c) By requiring licensees to participate in educational or rehabilitative programs in the area or areas in which they have been found deficient or incompetent.

(d) By requiring the licensee to submit to the care, counseling, or treatment of a physician, counseling service, health care facility, professional assistance program, or any comparable person or facility approved by the board.

(e) By requiring the person to practice under the direct supervision of a registered nurse for a period of time specified by the board.

(f) By imposition, after notice and the opportunity for hearing, of fines not to exceed \$1,000 for each violation or, in the case of a continuing violation, \$100 for each day the violation continues.

V. In cases involving imminent danger to public health, safety, or welfare, the board may order the immediate suspension of a license pending an adjudicative proceeding. The board shall commence this adjudicative proceeding not later than 10 working days after the date of the board order suspending the license. The licensee may waive the 10-day commencement requirement to allow for additional time to prepare for a hearing. If the licensee waives the requirement, the license shall remain suspended until the completion of the hearing. A record of the proceeding shall be made by a certified shorthand court reporter provided by the board. Unless expressly waived by the licensee, board failure to commence an adjudicative proceeding within 10 working days shall mean that the suspension order is automatically vacated. The board shall not again suspend the license for the same conduct which formed the basis of the vacated suspension without granting the licensee prior notice and an opportunity for an adjudicative proceeding.

VI. Every individual, agency, facility, institution or organization that employs licensed nursing personnel within the state shall report to the board within 30 days any action by a licensee that willfully violates paragraph II. The board shall have authority, after notice and the opportunity for hearing, to impose civil penalties of up to \$1,000 per violation upon persons found to have willfully violated the reporting requirements of this paragraph.

#### 326-B:38 Investigations and Hearings.

I. The board shall investigate possible misconduct by licensees and other matters governed by the provisions of this chapter. Investigations shall be conducted with or without the issuance of a board order setting forth the general scope of the investigation. Board investigations and any information obtained by the board pursuant to such investigations shall be exempt from the public disclosure provisions of RSA 91-A, unless such information subsequently becomes part of a public disciplinary hearing. However, the board may disclose information acquired in an investigation to law enforcement or health licensing agencies in this state or any other jurisdiction, or in accordance with specific statutory requirements or court orders.

II. The board may appoint legal counsel, health care advisors or other investigators to assist with any investigation and with adjudicative hearings.

III. The form taken by an investigation is a matter within the discretion of the board. The board may conduct investigations on an ex parte basis.

IV.(a) The board may administer oaths or affirmations, preserve testimony, and issue subpoenas for witnesses, documents and things, relative to investigations or adjudicative hearings, except that subpoenas for records issued pursuant to paragraph V may be issued at any time.

(b) The board may serve a subpoena on any licensee by certified mail, but shall serve a subpoena on any other person in accordance with the procedures and the fee schedules established by the superior court.

(c) A person licensed by the board shall not be entitled to a witness fee or mileage expenses for travel within the state related to his or her appearance at a hearing or investigatory proceeding.

(d) In order to be valid any subpoenas issued by the board, except one issued to a licensee, shall be annotated "Fees guaranteed by the New Hampshire board of nursing."

(e) A minimum of 48 hours notice shall be given for compliance with a subpoena issued under this paragraph.

V. The board may at any time subpoena a licensee's health care records, employment records and nursing education academic records in the possession of its licensees, nursing education programs licensed by the board or hospitals, and other health care providers and facilities regulated in this state, except that it may not subpoena quality assurance records of health facilities licensed under RSA 151. Subpoenas shall be served by certified mail or personal delivery to the address currently on file with the board in the case of delivery to a licensee. No witness or other fee shall be required. A minimum of 15 days' advance notice shall be allowed for complying with a subpoena issued under this paragraph.

VI. Complaints of licensee misconduct shall be in writing and shall be treated as petitions for the commencement of a disciplinary hearing. The board shall determine whether a complaint alleges misconduct sufficient to support disciplinary proceedings. If the board determines that it does, the board shall forward a copy of the complaint to the licensee complained against within 5 business days of its determination. If the board determines that it does not, the board shall send the complainant a written notice of dismissal of the complaint. Some or all of the allegations in a complaint may be consolidated with another complaint or with issues the board wishes to investigate or hear on its own motion. If an investigation of a complaint results in an offer of settlement by the licensee, the board may settle the allegations against the licensee without the consent of a complainant, provided that material facts are not in dispute.

VII. At any time during an investigation of a complaint, and without issuing a subpoena, the board may mail a copy of a complaint to the licensee named in the complaint, and may require in a written request that the licensee and the licensee's employer provide detailed and good faith written responses to allegations identified by the board and also provide copies of all records concerning any client identified in the complaint. The licensee and others receiving inquiries from the board shall respond within a reasonable time period of not less than 15 days as the board may specify. This procedure may also be used in connection with matters the board has undertaken to investigate on its own motion.

VIII. The board may hold adjudicative hearings concerning allegations of misconduct or other matters within the scope of this chapter. Such hearings shall be public proceedings. Any member of the board other than the public members, or any other qualified person appointed by the board, shall have authority to preside at such a hearing and to issue oaths or affirmations to witnesses.

IX. The board shall give the respondent and the complainant, if any, at least 15 days' written notice of the date, time and place of a hearing, except as otherwise provided in this chapter. Such notice shall comply with RSA 541-A and include an itemization of the issues to be heard, and, in the case of a disciplinary hearing, a statement as to whether the action has been initiated by a written complaint or upon the board's own motion, or both. If a written complaint is involved, the notice shall provide the complainant with a reasonable opportunity to intervene as a party. Such notice shall be sent by certified mail return receipt requested to the complainant and to the respondent at the address provided by respondent currently on file at the board offices. Notice mailed in compliance with this section shall be deemed served.

X. The board may at any time dispose of allegations in a complaint, investigation, or disciplinary hearing by settlement, default or consent order, by issuing an order of dismissal for failing to state a proper basis for disciplinary action or by summary judgment order based upon undisputed material facts. In disciplinary hearings, the board may hold pre-hearing conferences which shall be exempt from the provisions of RSA 91-A, but any final disciplinary action or decision which occurs without holding a public hearing shall be publicly released at the time it is served upon the parties.

XI. Final disciplinary actions and other adjudicative decisions made by the board shall be reduced to writing and served upon the parties. Such decisions shall not be released to the public until they are served upon the parties.

XII. Any person appearing at a board hearing or investigation may be represented by legal counsel, or other representative but the board shall have no obligation or authority to appoint or provide such representation.



XIII. The board shall hear any complaint not resolved at or prior to a preliminary hearing.

XIV. In the case of sanctions for discipline in another jurisdiction, the decision of the other jurisdiction's disciplinary authority may not be collaterally attacked and the board may impose any of the sanctions set forth in this chapter, but shall provide notice and an opportunity to be heard if it intends to impose sanctions above those imposed by the other jurisdiction.

326-B:39 Rehearing; Appeals.

I. Any person who has been refused a license by the board or has been disciplined by the board shall have the right to petition for a rehearing within 30 days after the original decision.

II. Appeals from a decision on rehearing shall be by appeal pursuant to RSA 541.

III. No sanction shall be stayed by the board during an appeal.

326-B:40 Injunctive Relief. The attorney general, the board of nursing, any citizen, or the prosecuting attorney of any county or municipality where the act occurs may maintain an action to enjoin a person not currently licensed to do so from practicing, or purporting to practice, nursing or nursing-related activities. The action to enjoin shall not replace any other civil, criminal, or regulatory remedy. An injunction without bond is available to the board.

326-B:41 Unlawful Acts. It shall be unlawful for any person or entity to:

I. Sell or fraudulently obtain or furnish any nursing diploma, license or record, or to aid and abet in such an act;

II. Practice as a licensee under this chapter when the license to do so has been revoked or suspended or when the license to do so has lapsed;

III. Use, in connection with the individual's name, any designation tending to imply licensure as a registered nurse, practical nurse or nursing assistant unless so licensed under this chapter; or

IV. Represent or imply that the person or entity is conducting a nursing education program or a program for the education of nursing assistants which has been approved by the board when the program has not been so approved.

V. Disclose, solicit or compile information regarding the contents of any licensing examinations relative to this chapter except as authorized by the board.

326-B:42 Persons Licensed Under Previous Laws. Any person, including a CGN, authorized to practice nursing by authority of this state as of the effective date of this section shall continue to be licensed under the provisions of this chapter and shall be eligible for license renewal pursuant to this chapter.

326-B:43 Exemptions. The provisions of this chapter shall not prohibit or limit:

I. The employment in federal government institutions and agencies of nurses who are members of federal agencies and are currently licensed in some state of the United States;

II. The practice of nursing by persons enrolled in nursing programs acceptable to the board when such practice is part of their program of study;

III. The furnishing of nursing assistance in an emergency;

IV. Nursing services by any certified unlicensed graduate nurse who has been engaged in this state in nursing the sick for hire without assuming in any way to be a registered nurse, as a bona fide occupation previous to July 1, 1959 and who was certified prior to January 1, 1975;

V. Nursing services by any one when done in accordance with the practice of the religious principles or tenets of any well-recognized church or denomination which relies upon prayer or spiritual means alone for healing;

VI. The practice of nursing in this state by any currently licensed nurse of another state engaged to accompany and care for a person passing through or temporarily residing in this state, during the period of one engagement not to exceed 2 months.

VII. The administration of medications, by any person employed, or under contract, to provide direct care to clients receiving community-based services pursuant to RSA 135-C or RSA 171-A, provided that persons delivering such care who administer medications shall have successfully completed a medication administration educational program conducted by a registered nurse and approved by the board under rules adopted pursuant to RSA 541-A. The commissioner of health and human services, in consultation with the board, shall adopt rules establishing criteria for the administration of medications, and for the process of approving a registered nurse to conduct the medication administration educational program.

326-B:44 Midwifery Not the Practice of Nursing. Midwives certified under RSA 326-D, and practicing midwifery as defined by RSA 326-D:2, V, shall not be construed as practicing nursing under this chapter.

326-B:45 Direct Care in Community-Based Services. The administration of medications, by non-licensurees to individuals receiving community-based services pursuant to RSA 135-C or RSA 171-A shall not be construed as practicing nursing.

2 Nursing Assistant Fund. Amend RSA 6:12, I(bb), to read as follows:

(bb) Money received under RSA [326-B:29] **326-B:8**, which shall be credited to the board of nursing's nursing assistant fund.

3 Residential Care and Facility Licensing; Disciplinary Actions; Report to Board of Nursing Added.

151:6-b Report of Disciplinary Action. Every facility administrator, or designee, for any health care facility licensed under this chapter shall report to the board of medicine *or the board of nursing* any disciplinary or adverse action[ *taken against a licensee of the board. Such report shall be made* within 30 days after such action is taken[*including*]. *Actions reported shall only involve misconduct sufficient to support disciplinary proceedings by the board and shall include all situations in which allegations of misconduct are settled by voluntary resignation without adverse action[ against a person licensed by the board].*

4 Residential Care and Facility Licensing; Rules. Amend RSA 151:9, I(k) to read as follows:

(k) Procedures for reviewing documentation of the mandatory completion of a state approved program under RSA [326-B:4-a] **326-B** for assistants to nurses in facilities licensed under RSA 151:2, who may not assume the responsibility of the position of an assistant to nurses prior to completion of the appropriate course required by this chapter.

5 Privileged Communication. Amend RSA 316-A:27 to read as follows:

316-A:27 Privileged Communications. The confidential relations and communications between any person licensed under provisions of this chapter and such licensed person's patient are placed on the same basis as those provided by law between attorney and client, and, except as otherwise provided by law, no such doctor of chiropractic shall be required to disclose such privileged communications. Confidential relations and communications between a patient and any person working under the supervision of a doctor of chiropractic that are customary and necessary for diagnosis and treatment are privileged to the same extent as though those relations or communications were with such supervising doctor of chiropractic. This section shall not apply to disciplinary hearings or actions conducted under RSA 316-A:22, relative to the board of chiropractic examiners, RSA [326-B:12] **326-B**, relative to the board of nursing, RSA 151-A:11, relative to the board of examiners of nursing home administrators, or any other statutorily created medical occupational licensing board conducting disciplinary proceedings. This section shall not apply to hearings conducted pursuant to RSA 135-C:27-54.

6 Pharmacies; Definitions. Amend RSA 318:1, 1-a to read as follows:

1-a. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA [326-B:10] **326-B:13**.

7 Pharmacies; Possessing Prescription Drugs. Amend RSA 318:42, VII (b) to read as follows:

(b) The drugs appear on the current formulary approved pursuant to RSA [326-B:10; H] **326-B**.

8 Controlled Drug Act; Definitions. Amend RSA 318-B:1, 1-b to read as follows:

1-b. "Advanced registered nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA [326-B:10] **326-B:13**.

9 Occupational Therapists; Authorizations. Amend RSA 326-C:2, I to read as follows:

I. Consultation and evaluation by an occupational therapist may be performed without a referral. Initiation of occupational therapy services to individuals with medically related conditions shall be based on a referral from a physician or physician assistant licensed by the state board of medicine, an advanced registered nurse practitioner licensed under RSA [326-B:10] **326-B:13**, a chiropractor licensed under RSA 316-A, an optometrist licensed under RSA 327, or any other qualified health care professional who, within the scope of the professional's licensure, is authorized to refer for health care services.

10 Respiratory Care Practice Act; Definitions. Amend RSA 326-E:1, V to read as follows:

V. "Nurse practitioner" means a person licensed to practice as an advanced registered nurse practitioner in this state pursuant to RSA [326-B] **326-B:13**.

11 Mental Health Practice; Definitions. Amend RSA 330-A:2, VIII to read as follows:

VIII. "Psychotherapist" means a psychologist, clinical social worker, pastoral psychotherapist, clinical mental health counselor, or marriage and family therapist licensed under this chapter

who performs or purports to perform psychotherapy. This definition shall include psychiatrists licensed as physicians under RSA 329 and advanced registered nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:13** as psychiatric nurse practitioners.

12 Mental Health Practice; Penalties. Amend RSA 330-A:23, I to read as follows:

I. Except as provided in RSA 330-A:34, it shall be unlawful for any person to be engaged in mental health practice unless that person is licensed by the board, working as a candidate under the direct supervision of a person licensed by the board, or engaged in the practice of other mental health services as an alternative provider as defined in RSA 330-A:2, I. The license or the registration of such person shall be current and valid. It shall be unlawful for any person to practice as or to refer to oneself as a psychologist, a pastoral psychotherapist, a clinical social worker, a clinical mental health counselor, or a marriage and family therapist, or use the word "psychotherapist," or any variation thereof, in such person's title unless that person is licensed by the board or working as a candidate under the direct supervision of a person licensed by the board. Psychiatrists licensed under RSA 329 and psychiatric nurse practitioners licensed under RSA ~~[326-B:10]~~ **326-B:13** may refer to themselves as psychotherapists.

13 Mental Health Practice; Persons Exempted. Amend RSA 330-A:34, I (e) to read as follows:

(e) The psychotherapy activities and services of physicians licensed under RSA 329, and advanced registered nurse practitioners, licensed under RSA ~~[326-B:10]~~ **326-B:13**.

14 Insurance; Coverage for Mental or Nervous Conditions. Amend RSA 415:18-a, V (d) to read as follows:

(d) "Psychiatric/mental health advanced registered nurse practitioner" means an individual who is licensed as an advanced registered nurse practitioner in psychiatric mental health nursing under RSA ~~[326-B:10]~~ **326-B:13**, who is defined by and whose scope of practice is described under the rules adopted pursuant to RSA 326-B, and who is a licensed registered nurse, educationally prepared in nursing at a minimum of the master's level, and certified in the specialty by a recognized national certifying agency, such as the American Nurses Credentialing Center.

15 Effective Date. This act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill revises the law governing the occupational regulation of nurses by the board of nursing. Adopted.

Report adopted and ordered to third reading.

**HB 421-FN-A**, relative to the waiting list for services for people with developmental disabilities and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Rogers J. Johnson for Finance: The committee once again heard testimony about the need to provide additional funds to the Department of Health and Human Services to reduce the wait list. However, the committee noted that the original intent of the bill was largely accomplished by the budget just approved by the legislature. Vote 14-7.

Rep. Malloy requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

#### YEAS 188 NAYS 142

##### YEAS 188

##### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Wendelboe, Fran

Allen, Janet  
Dewhirst, Glenn  
Nedeau, Stephen  
Whalley, Michael

Bartlett, Gordon  
Fitzgerald, James  
Rice, Thomas

Boyce, Laurie  
Flanders, Donald  
Russell, David

##### CARROLL

Babson, David Jr  
Morrow, Harry  
Stevens, Stanley

Brown, Carolyn  
Mock, Henry

Hatch, Paul  
Patten, Betsey

Kenney, Bettie  
Philbrick, Donald

##### CHESHIRE

Dexter, Judson  
Parkhurst, Henry

Hunt, John  
Royce, H Charles

Laurent, John  
Smith, Edwin

Liebl, George

**COOS**

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

**GRAFTON**

Alger, John  
Giuda, Robert

Barker, Robert  
Ingbretson, Paul

Dudley, Terri  
Maybeck, Margie

Gilman, G Michael  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Brundige, Robert  
Carter, Jeffrey  
Coughlin, Pamela  
Elliott, Larry  
Ford, Nancy  
Greenberg, Gary  
Hansen, Ryan  
Jasper, Shawn  
Lafamme, Charles  
Martin, Mary Ellen  
Moran, Edward  
Pepino, Leo  
Slocum, Lee  
Tahir, Saghir  
Wheeler, Robert

Allan, Nelson  
Barry, J Gail  
Bruno, Pierre  
Cernota, Albert  
Desmarais, Vivian  
Emerton, Larry  
Gibson, John  
Hagan, Barbara  
Hawkins, Ken  
Johnson, Lionel  
LaFlamme, Paul  
McHugh, Claire  
Mosher, William  
Price, Pamela  
Souza, Kathleen  
Tate, Joan

Arnold, Thomas Jr  
Beaton, William  
Buhlman, David  
Chabot, Robert  
Dokmo, Cynthia  
Fields, Dennis  
Gonzalez, Carlos  
Hall, Charles  
Haytayan, Harry Jr  
Kurk, Neal  
Leach, Edward  
McRae, Karen  
O'Brien, Lori  
Rowe, Robert  
Spiess, Paul  
Vaillancourt, Steve

Artz, Lawrence  
Bergin, Peter  
Carlson, Donald  
Christensen, D L Chris  
Drisko, Richard  
Fletcher, Richard  
Graham, John  
Hallyburton, Margaret  
Hinkle, Peyton  
L'Heureux, Robert  
Luebker, Bernard  
Mercer, Robert  
Ober, Russell III  
Scanlon, Michael  
Stepanek, Stephen  
Wheeler, James

**MERRIMACK**

Anderson, Eric  
Hess, David  
Leber, William  
Maxfield, Roy  
Soltani, Tony

Field, William  
Jacobson, Alf  
Lockwood, Priscilla  
McCormick, Tom

Foley, Albert  
Kenison, Leon  
MacKay, James  
Nutter, Edward

Hager, Elizabeth  
Langer, Ray  
Marple, Richard  
Oliver, James

**ROCKINGHAM**

Belanger, Ronald  
Cady, Harriet  
Dodge, Robert  
Gillick, Thomas  
Headd, James  
Itse, Daniel  
Kobel, Rudolph  
McCann, Richard  
Putnam, Ed II  
Smith, Donald  
Waterhouse, Kevin  
Wiley, Robert

Bicknell, Elbert  
Camm, Kevin  
Flanders, John Sr  
Gleason, John  
Hughes, Daniel  
Johnson, Rogers  
Langley, Jane  
McKinney, Betsy  
Quandt, Matthew  
Stone, Joseph  
Weare, E Albert  
Zolla, William

Bishop, Franklin  
Clark, Vivian  
Francoeur, Sheila  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert  
Morris, Richard  
Rausch, James  
Tufts, J Arthur  
Welch, David

Bridle, Russell  
DiFruscia, Anthony  
Gilbert, Jeffrey  
Hamel, Albert  
Introne, Robert  
Katsakiores, Phyllis  
Major, Norman  
Noyes, Richard  
Roessner, Kurt  
Varrell, Thomas  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Harrington, Michael  
Twombly, James

Bemis, Alan  
Creteau, Irene  
Musler, George  
Woods, Phyllis

Bickford, David  
Dunlap, Patricia  
Newton, Clifford

Campbell, W Packy  
Easson, Timothy  
Scott, David

**SULLIVAN**

Rodeschin, Beverly

## NAYS 142 BELKNAP

Pilliod, James

## CARROLL

Derby, Mark

Dickinson, Howard

McConkey, Mark

Olimpio, J Lisbeth

## CHESHIRE

Allen, Peter

Fish, Douglas

Pratt, Irene

Tilton, Anna

Dunn, James

Manning, Joseph

Pratt, John

Weed, Charles

Eaton, Daniel

Meador, David

Richardson, Barbara

Espieffs, Peter

Mitchell, McKim

Robertson, Timothy

## COOS

Mears, Edgar

## GRAFTON

Akins, Ralph

Cooney, Mary

Gionet, Edmond

Scovner, Nancy

Almy, Susan

Densmore, Edward

Hammond, Lee

Sokol, Hilda

Benn, Bernard

Diamond, Estelle

Naro, Debra

Solomon, Peter

Bleyler, Ruth

Dorsett, Andrew

Nordgren, Sharon

## HILLSBOROUGH

Baroody, Benjamin

Carter, Mark

Cote, Peter

Haley, Robert

Jean, Claudette

Lefebvre, Roland

Movesian, Lori

Schulze, Joan

Sweeney, Cynthia

Batula, Peter

Clayton, William

Craig, James

Hopper, Gary

Katsiantonis, Thomas

Malloy, Chris

Pappas, Christopher

Shaw, Barbara

Brassard, Paul

Clemons, Jane

Gargas, Carolyn

Infantine, William

Kopka, Angeline

Messier, Irene

Pilotte, Maurice

Sullivan, Francis

Buckley, Raymond

Cote, David

Gorman, Mary

Irwin, Anne-Marie

Lasky, Bette

Mooney, Maureen

Reeves, Sandra

Sullivan, Peter

## MERRIMACK

Blanchard, Elizabeth

Currier, David

DeStefano, Stephen

Kennedy, Richard

Potter, Frances

Wallner, Mary Jane

Bouchard, Candace

Daniels, Eric

Fraser, Leo Jr

Osborne, Jessie

Reardon, Tara

Brueggemann, Donald

Davis, Frank

French, Barbara

Owen, Derek

Rush, Deanna

Clarke, Claire

DeJoie, John

Hamm, Christine

Perkins, Randy

Seldin, Gloria

## ROCKINGHAM

Blanchard, MaryAnn

Cooney, Richard

Griffin, Mary

Langone, John

Norelli, Terie

Splaine, James

Carson, Sharon

Corbin, Corey

Holland, James Jr

Manning, John

Pitts, Jacqueline

Vallone, Matthew

Casey, Kimberley

Dalrymple, Janeen

Johnson, Robert

McEachern, Paul

Robertson, Carl

Winchell, George

Coes, Betsy

Dumaine, Dudley

Kelley, Jane

McMahon, Charles

Schultz, Elizabeth

## STRAFFORD

Berube, Roger

Hofemann, Roland

Miller, Joseph

Smith, Marjorie

Vachon, Dennis

Brown, Julie

Johnson, Nancy

Pelletier, Arthur

Spang, Judith

Wall, Janet

Callaghan, Frank

Kaen, Naida

Rous, Emma

Taylor, Katherine

Heon, Richard

Knowles, William

Schmidt, Peter

Taylor, Kathleen

**SULLIVAN**

Allison, David  
 Ferland, Brenda  
 Harris, Sandra

Burling, Peter  
 Flint, Gordon Sr  
 Jones, Constance

Cloutier, John  
 Franklin, Peter  
 Leone, Richard

Donovan, Thomas  
 Harris, Joseph  
 Phinizy, James

and the committee report was adopted.

**HB 610-FN-L**, relative to reimbursement of public safety expenditures made by the town of Plymouth on behalf of Plymouth state college. **INEXPEDIENT TO LEGISLATE**

Rep. Robert K. Dodge for Finance: The sponsors of this bill are to be commended for organizing a presentation that shows how the rising cost of safety services to our university and college campuses is affecting the host municipalities. The committee listened to hours of testimony in Concord and at the Plymouth Town Hall. Copies of the testimony are being provided to the Board of Trustees of the University System of New Hampshire and the Public Higher Education Study Committee. During the current legislative session the legislature has passed SB 22, an amendment to RSA 187-A:28-c, 1. The bill has been signed by the governor and was effective May 9, 2003. The amendment adds to the charge of the Public Higher Education Study Committee the responsibility to address all of the issues contained in HB 610, study possible solutions and recommend legislation. The committee urges the Board of Trustees and the municipalities affected by higher education campuses to work with the Public Higher Education Study Committee to arrive at an equitable solution. Vote 14-6.

Rep. Naro spoke in favor.

Adopted.

**HB 793-FN-A**, relative to reimbursement rates for home health services and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. Rogers J. Johnson for Finance: The committee heard testimony requesting additional funds for home health services. While the information presented indicated a need for increased rates, the overriding concern was the source of funds. In addition, the Executive Departments and Administration Committee is currently reviewing HB 712 that will provide guidelines from which future legislation may follow. Therefore we find this bill inexpedient to legislate. Vote 14-6.

Adopted.

**HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners. **OUGHT TO PASS**

Rep. Robert J. L'Heureux for Fish and Game: This bill more clearly specifies certain duties of the Fish and Game Commission and establishes a complaint and discipline procedure for prohibited acts by any Fish and Game Commissioner, and clearly defines the Commission's involvement in personnel matters. There is nothing in this bill that would preclude an employee of the Department from contacting or reporting any issue they may wish to any Commission member. Vote 9-7.

Adopted and ordered to third reading.

**CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This CACR clarifies the rulemaking authority of the Supreme Court. It preserves the power of the Supreme Court to make rules relative to court administration and the practice, procedure, and admissibility of evidence. It also gives the Legislature concurrent power to regulate these issues by statute and provides that when, and if, a rule and a statute conflict on these issues, the statute prevails. The committee was careful to ensure that the CACR preserves the court's constitutional decisional making powers, or "necessary adjudicatory functions", as they are called. The committee is of the opinion that this CACR makes clear that elected officials should, and shall, have final authority of "non-decisional" issues of the courts while preserving the separation of powers required by the New Hampshire Constitution. Vote 16-2.

**Amendment (2504h)**

Amend the resolution by replacing the title of the resolution with the following:

RELATING TO: the rulemaking authority of the supreme court.

PROVIDING THAT: the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

Amend the resolution by replacing all after the resolving clause with the following:

I. That part II, article 73-a of the constitution be repealed and reenacted in order to clarify that both the judiciary and the legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise, so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the same matters by statutes of general application, except that such legislative enactments may not abridge the judiciary's necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2004.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

"Are you in favor of repealing and reenacting part II, article 73-a of the constitution in order to clarify that both the judiciary and legislature have the authority to regulate court practices and procedures and to resolve potential conflicts that may arise so that it reads as follows:

[Art.] 73-a. [Court Practices and Procedures.] The chief justice of the supreme court shall be the administrative head of all the courts in the state. The chief justice shall have the power, with the concurrence of a majority of the other supreme court justices, to make rules of general application regulating court administration and the practice, procedure, and admissibility of evidence, in all courts in the state. The legislature shall have a concurrent power to regulate the same matters by statutes of general application, except that such legislative enactments may not abridge the judiciary's necessary adjudicatory functions. In the event of a conflict between a rule promulgated by the judiciary and a statute enacted by the legislature, the statute, if not otherwise contrary to this constitution shall prevail over the rule."

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2004 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

#### AMENDED ANALYSIS

This constitutional amendment concurrent resolution provides that the supreme court may adopt rules of general application and that the general court may also regulate these matters by statutes of general application, provided that the general court may not abridge the judiciary's necessary adjudicatory functions. The resolution also provides that in the event of a conflict between a statute and a rule, the statute shall prevail over the rule, if not contrary to the provisions of the constitution.

Adopted.

Rep. Craig spoke in favor.

Rep. Phyllis Woods spoke in favor and yielded to questions.

Rep. Mock requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 256 NAYS 69****YEAS 256****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Wendelboe, Fran

Allen, Janet  
Dewhirst, Glenn  
Nedeau, Stephen  
Whalley, Michael

Bartlett, Gordon  
Fitzgerald, James  
Rice, Thomas

Boyce, Laurie  
Flanders, Donald  
Russell, David

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, Stanley

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Morrow, Harry  
Philbrick, Donald

**CHESHIRE**

Dexter, Judson  
Laurent, John  
Pratt, Irene

Eaton, Daniel  
Liebl, George  
Richardson, Barbara

Fish, Douglas  
Manning, Joseph  
Royce, H Charles

Hunt, John  
Meador, David  
Smith, Edwin

**COOS**

Brady, Mark  
Richardson, Herbert

King, Frederick  
Stohl, Eric

Mears, Edgar  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

**GRAFTON**

Akins, Ralph  
Dorsett, Andrew  
Giuda, Robert  
Solomon, Peter

Alger, John  
Dudley, Terri  
Ingretson, Paul  
Sorg, Gregory

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Densmore, Edward  
Gionet, Edmond  
Naro, Debra

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Bergin, Peter  
Buckley, Raymond  
Carter, Mark  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Haley, Robert  
Hawkins, Ken  
Infantine, William  
Kurk, Neal  
Leach, Edward  
Martin, Mary Ellen  
Messier, Irene  
Movsesian, Lori  
Pepino, Leo  
Rowe, Robert  
Souza, Kathleen  
Sweeney, Cynthia  
Wheeler, James

Allan, Nelson  
Barry, J Gail  
Brassard, Paul  
Buhlman, David  
Cernota, Albert  
Craig, James  
Elliott, Larry  
Ford, Nancy  
Graham, John  
Hall, Charles  
Haytayan, Harry Jr  
Jasper, Shawn  
L'Heureux, Robert  
Lefebvre, Roland  
McHugh, Claire  
Mooney, Maureen  
O'Brien, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Spiess, Paul  
Tahir, Saghir  
Wheeler, Robert

Arnold, Thomas Jr  
Batula, Peter  
Brundige, Robert  
Carlson, Donald  
Christensen, D L Chris  
Desmarais, Vivian  
Emerton, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Hallyburton, Margaret  
Hinkle, Peyton  
Johnson, Lionel  
Laflamme, Charles  
Luebker, Bernard  
McRae, Karen  
Moran, Edward  
Ober, Russell III  
Price, Pamela  
Shaw, Barbara  
Stepanek, Stephen  
Tate, Joan

Artz, Lawrence  
Beaton, William  
Bruno, Pierre  
Carter, Jeffrey  
Clayton, William  
Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Hagan, Barbara  
Hansen, Ryan  
Hopper, Gary  
Katsiantonis, Thomas  
Lasky, Bette  
Malloy, Chris  
Mercer, Robert  
Mosher, William  
Pappas, Christopher  
Reeves, Sandra  
Slocum, Lee  
Sullivan, Francis  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
DeJoie, John  
Fraser, Leo Jr

Blanchard, Elizabeth  
DeStefano, Stephen  
Hager, Elizabeth

Currier, David  
Field, William  
Hamm, Christine

Daniels, Eric  
Foley, Albert  
Hess, David



Jacobson, Alf  
Leber, William  
Maxfield, Roy  
Reardon, Tara

Kenison, Leon  
Lockwood, Priscilla  
McCormick, Tom  
Soltani, Tony

Kennedy, Richard  
MacKay, James  
Nutter, Edward

Langer, Ray  
Marple, Richard  
Oliver, James

### ROCKINGHAM

Belanger, Ronald  
Cady, Harriet  
Coes, Betsy  
DiFruscia, Anthony  
Gilbert, Jeffrey  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Langone, John  
McCann, Richard  
Morris, Richard  
Rausch, James  
Stone, Joseph  
Waterhouse, Kevin  
Wiley, Robert

Bicknell, Elbert  
Camm, Kevin  
Cooney, Richard  
Dodge, Robert  
Gillick, Thomas  
Headd, James  
Introne, Robert  
Katsakiores, Phyllis  
Letourneau, Robert  
McEachern, Paul  
Noyes, Richard  
Roessner, Kurt  
Tufts, J Arthur  
Weare, E Albert  
Winchell, George

Bishop, Franklin  
Carson, Sharon  
Corbin, Corey  
Dumaine, Dudley  
Gleason, John  
Holland, James Jr  
Itse, Daniel  
Kelley, Jane  
Major, Norman  
McKinney, Betsy  
Putnam, Ed II  
Smith, Donald  
Vallone, Matthew  
Welch, David  
Zolla, William

Bridle, Russell  
Clark, Vivian  
Dalrymple, Janeen  
Francoeur, Sheila  
Griffin, Mary  
Hughes, Daniel  
Johnson, Rogers  
Kobel, Rudolph  
Manning, John  
McMahon, Charles  
Quandt, Matthew  
Splaine, James  
Varrell, Thomas  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Hofemann, Roland  
Scott, David  
Wall, Janet

Bemis, Alan  
Dunlap, Patricia  
Kaen, Naida  
Taylor, Katherine  
Woods, Phyllis

Bickford, David  
Easson, Timothy  
Musler, George  
Taylor, Kathleen

Campbell, W Packy  
Harrington, Michael  
Newton, Clifford  
Twombly, James

### SULLIVAN

Cloutier, John  
Leone, Richard

Flint, Gordon Sr  
Rodeschin, Beverly

Franklin, Peter

Jones, Constance

### NAYS 69 BELKNAP

Pilliod, James

### CARROLL

None

### CHESHIRE

Allen, Peter  
Parkhurst, Henry  
Weed, Charles

Dunn, James  
Pratt, John

Espiefs, Peter  
Robertson, Timothy

Mitchell, McKim  
Tilton, Anna

### COOS

None

### GRAFTON

Amy, Susan  
Diamond, Estelle  
Sokol, Hilda

Benn, Bernard  
Hammond, Lee

Bleyler, Ruth  
Nordgren, Sharon

Cooney, Mary  
Scovner, Nancy

### HILLSBOROUGH

Baroody, Benjamin  
Cote, Peter  
Kopka, Angeline

Chabot, Robert  
Gorman, Mary  
Schulze, Joan

Clemons, Jane  
Irwin, Anne-Marie  
Sullivan, Peter

Cote, David  
Jean, Claudette

**MERRIMACK**

Bouchard, Candace  
French, Barbara  
Rush, Deanna

Brueggemann, Donald  
Osborne, Jessie  
Seldin, Gloria

Clarke, Claire  
Perkins, Randy  
Wallner, Mary Jane

Davis, Frank  
Potter, Frances

**ROCKINGHAM**

Blanchard, MaryAnn  
Norelli, Terie

Casey, Kimberley  
Pitts, Jacqueline

Gould, Kenneth  
Robertson, Carl

Johnson, Robert  
Shultis, Elizabeth

**STRAFFORD**

Berube, Roger  
Johnson, Nancy  
Rous, Emma  
Vachon, Dennis

Brown, Julie  
Knowles, William  
Schmidt, Peter

Callaghan, Frank  
Miller, Joseph  
Smith, Marjorie

Creteau, Irene  
Pelletier, Arthur  
Spang, Judith

**SULLIVAN**

Allison, David  
Harris, Joseph

Burling, Peter  
Harris, Sandra

Donovan, Thomas  
Phinizy, James

Ferland, Brenda

and the committee report was adopted by the constitutionally required three-fifths vote.  
Ordered to third reading.

**MOTION TO PRINT REMARKS**

Rep. Espiebs moved that the debate on **CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule, be printed in the Permanent Journal.  
Adopted.

**REMARKS ON CACR 5**

Rep. Craig: Thank you, Mr. Speaker. I rise in support of the Judiciary Committee's 16 to 2 vote of Ought to Pass on CACR 5. The first thing I would like to do is state what this CACR does not do. Our constitution gives the judicial branch of the government the absolute and unfettered right to interpret the constitution and the laws and the constitutionality of the laws that we pass in the legislature. It also gives them the unfettered right to determine and make orders on disputes between citizens and the state itself. This CACR does nothing to change that essential power. I will defend that to the death, preferably not my own, while I am here.

What this CACR does is it concerns the rulemaking power that the judiciary has. There is no question that they do have it right now. What that means is, what this bill really does is concern itself with a limited area that is in dispute right now between the legislature and the court. It concerns the rulemaking power on the issues of court administration, the practice, the procedure, and the admissibility of evidence. That's what this CACR is going to alter a bit. The courts, in talking about these issues, rely on Part I, Article 37 of the Constitution, the Separation of Powers. If you read that Article, the Constitution does not list three separate kingdoms: legislative, executive and judicial. It certainly does make a distinction, and there is a distinction, however, it says that the three branches, "to wit, the legislative, executive and judicial, ought to be kept as separate from, and independent of, each other, as the nature of a free government will admit, or as is consistent with that chain of connection that binds the whole fabric of the constitution in one indissoluble bond of unity and amity." That's different than saying there are three separate kingdoms. The Judiciary Committee believes that this CACR will preserve that constitutional mandate in a way that is much more friendly to the people who elected us to make the laws.

This issue has really come up in the court in the past. I'll give you a few examples. There was one issue where the legislature intended to pass a law to make it easier to convict people accused of sexually assaulting children, and the judiciary said, "You can't do that, and that's our bailiwick and that conflicts with our rules, and so it's unconstitutional." So the elected body here was not allowed to give its input into that issue. Another issue that has come up is the issue of court security and the court has said, "That's not the legislative bailiwick, that's our bailiwick, keep your

nose out of it.” Another issue that has come up is that of criminal rules where the court has just said you have no business altering the rules of evidence. Now, I will admit that my opinion is the rules of evidence are best interpreted by the people who have to live with them, the court. But I strongly feel, and the Judiciary Committee strongly feels, that there are certain instances where the people should directly have input into those rules. So I feel confident that this body has enough integrity to work, and the judiciary has enough integrity to work together so the people have more say in these kinds of limited issues.

This has come up before, and in the last election this CACR failed to pass in the general election by about two or three percentage votes. It needed 66% of the entire vote of the citizens of New Hampshire. It missed by a few percentage points. But one of the issues that the courts brought last time is that the courts have their own rulemaking authority, and that they have their own democratic process to determine these issues so they don't need, that's how the people are heard because they have their own democratic rulemaking process. That's true, but there have been two or three cases that have come down where the courts themselves, one of the judges once was Justice Duggan, and once it was Justice Dalianis, where the court bypassed their own rulemaking authority entirely and just dictated that we are going to change the rules by judicial fiat. We just said we are changing the rules and there were two dissents, by those two justices who say we understand what you are saying, it's not a bad idea what you are saying but you have this rulemaking procedure, you ought to use it and they didn't do that. So, the argument that there is already a democratic process is not entirely persuasive. But what the mechanics of this CACR does is it does not take away the rulemaking powers of the court. The court has the rulemaking power to make these decisions right now. It will retain those rulemaking powers under this CACR. What will change is that if the legislature decides that one of the rules that is promulgated by the court is improper for whatever reason, the legislature can enact a statute by the same way we do it now and if it conflicts with an existing court rule, the statute will take precedence over the rule. So the court will retain, and I suspect that in 95 to 99% of the time the courts will continue to make their own rules and the legislature won't have anything to say about it, because most of these things are just conventional rules. But in that small instance where there is, and there is some debate on where our authority ends, and where theirs starts, and in those small instances where those issues are presented, the legislature can overrule the court's rules.

I as well, and probably better than anyone in here, understand some of the bitterness and rancor over the last few years between the legislature and the courts. But I also have sat here and I see the people in here and how the sausage is made. I am 98% certain that with the cooperation of the courts, and the cooperation of the legislature that this CACR will allow the people more say in the running of the judiciary without interfering with the decisional, adjudicatory powers of the judiciary. So for that reason, the Judiciary Committee strongly feels that this CACR better fits the mandates of the constitution and that the citizens of New Hampshire, as well as the attorneys, the legislators, everyone will have a better judiciary, if we pass this constitutional amendment. Thank you.

Rep. Phyllis Woods: Thank you, Mr. Speaker. Thank you, members of the House. I am going to be very brief and give you the “Readers Digest,” non-lawyer version of what CACR 5 is about. Right now, our courts have the power to make rules to govern the practices and procedures to be used in all of the courts in this state, and these are extensive. We are talking about hundreds of rules. These are not mere suggestions. These have the force and effect of law and they pertain to you and I. The legislature, also, can make laws that govern the practices and procedures to be used in courts. Article 5, Part II, of the constitution gives full power and authority to the legislature to make all manner of rules, laws, ordinances and statutes.

However, a problem has arisen in recent years where some decisions of the courts have said that they have “alone” the exclusive power to make rules over certain situations, thereby stripping away some of the power of the legislature to make rules in those areas. Here's the problem with the separation of powers being thrown slightly out of kilter. And this why we need CACR 5. The purpose is to bring the branches of government back into balance. It does two things, as my previous colleague mentioned. It maintains the powers of the courts that they currently have to make rules of practice and procedure. But it also restores and reaffirms the constitutional power of the legislature to make the same type of laws. It does not take away or limit the power the courts now have, but it says that the courts cannot, however, limit the power that the legislature has.

Further, if the courts try to write a rule that overturns a law that we passed, we've inserted in the amendment a conflict resolution which says that in the event of a conflict between a court rule and

a law, that the law will prevail unless it is deemed to be unconstitutional. This will guarantee that the final lawmaking authority resides with the elected representatives of the people who are accountable to the people and restores the balance of power to our government. That's all it does. Please vote "yes" on Ought to Pass with Amendment as recommended by the Judiciary Committee. Thank you, Mr. Speaker.

Rep. Boyce: Thank you, Mr. Speaker and thank you, Rep. Woods. I just have a question. If it's deemed unconstitutional, who makes it unconstitutional, the lawyers, the judges? Who makes the decision whether it's unconstitutional?

Rep. Woods: Thank you for that question, Rep. Boyce. This CACR 5 will not change the current situation and the current situation is that if challenged by anyone with standing, the courts are allowed to determine whether or not a law is constitutional, and they will still have that same power if we pass this Constitutional Amendment.

## REGULAR CALENDAR (CONT'D.)

### MOTION TO SPECIAL ORDER

Rep. Mock moved that **CACR 9**, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed, be made a Special Order for January 22, 2004 in the Regular Calendar order. Adopted.

**CACR 10**, relating to gender neutral language in the constitution. Providing that all references to persons in part 2 of the constitution shall be gender neutral. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Terri C. Dudley for the Majority of Judiciary: The majority of the committee felt that the constitution is a historical document. Its language is all encompassing and must be read in its historical context. Wholesale revision of the entire document would be unwieldy and impractical because the entire constitution would, by statute, have to be published in full on the ballot. The citizens must see each and every change. Vote 13-4.

Rep. Maureen C. Mooney for the Minority of Judiciary: The New Hampshire State Constitution is a living, all-inclusive document that outlines the fundamental rights of each resident. The modernization of constitutional language provides for an up-to-date, legitimate and fully accurate foundation upon which our rights are based. Part I, Art. 2 states that equality of rights under the law shall not be denied on account of race, creed, color, sex or national origin. By replacing the masculine language with gender neutral references throughout the Form of Government section of the document, our state's commitment to guarantee equal protection for all is expressly confirmed in writing to favor all citizens. The minority in the committee feels that achieving this explicit confirmation of rights outweighs the burden of overcoming the technicalities of amending our state constitution.

Rep. Dudley spoke in favor.

Majority committee report adopted.

**HB 369**, relative to the Henniker and Hillsborough district courts. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE**

Rep. Tony F. Soltani for the Majority of Judiciary: This bill would divide the present Henniker-Hillsborough judicial district into a separate Henniker and a separate Hillsborough district, and specify the towns to be included in each. Presently, there is a district courthouse facility in each of the Towns of Henniker and Hillsborough, and this bill would ensure that these facilities continue to serve their communities. This bill was supported by the local justices and many local officials. Vote 9-7.

Rep. John M. Pratt for the Minority of Judiciary: By splitting the now-unified Henniker-Hillsborough judicial district into two districts, this bill would surely result in a situation where there would be no winners. Both towns would continue into the indefinite future to hold court in buildings which fail to meet state standards. Ultimately, the state would be faced with additional capital and operating costs. The real tragedy is that, at present, a new court building, to be located probably four miles from beautiful downtown Henniker and three miles from the center of Hillsborough at the northern end of the new Route 9 bypass, has neared the top of the Court Accreditation Commission's priority list. It would go by the boards. The towns lose, the state loses, and justice is not well served.

Rep. John Pratt spoke against and yielded to questions.  
 Rep. Rowe spoke in favor and yielded to questions.  
 Majority committee report adopted.  
 Referred to Finance.

### RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, January 22, 2004 at 10:00 a.m.  
 Adopted.

### LATE SESSION

#### Third reading and final passage

**HB 265**, relative to the health care delivery system.

**HB 652-FN**, relative to qualified wellness or disease management programs.

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

**HB 264**, establishing state representative districts

**HB 767-FN**, relative to political advertising not authorized by the candidate.

**HB 72**, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food.

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing.

**HB 729-FN**, relative to the regulation of tanning facilities.

**SB 199**, revising the nurse practice act.

**HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners.

**CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

### UNANIMOUS CONSENT

Reps. Barry and Kennedy addressed the House.

Speaker Chandler addressed the House.

Rep. Burling requested the Speaker's remarks be printed in the Permanent Journal.

Without objection, the remarks will be printed in the Permanent Journal.

Speaker Chandler: I have something to say. It will only take a minute but it's something I've become more and more concerned about, as I know certain members of the House have, from listening to their comments. That certainly is not so much attributed to what goes on in the House, because I think things have been fairly well controlled. The issue, generally speaking, is the lack of decorum and civility to certain members from not only members, but members of the public, too. I think this is intolerable and it needs to stop. We are here to do the business of the State of New Hampshire in a respectful and business-like fashion. We can have disagreements, and we can do that, but our disagreements should be on a high plane and I hope that we can continue to do that. We need to be tolerant of our fellow members and discuss the issues but refrain from personal attacks. We must not, can not, allow members of this House to hold any member of any committees of this House, especially the Ethics Committee of which I'm very proud, subject to any unwanted and unwarranted personal attacks on the business they are doing on behalf of the State of New Hampshire. I hope you will stand with me on that and I appreciate that. Thank you.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 3:55 p.m.

RECESS

**(Rep. Batula in the Chair)**

**RESOLUTION**

Rep. MacKay offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bill numbered 109 shall be by this resolution read a first and second time by the therein listed title, and referred to the therein designated committee.  
Adopted.

**INTRODUCTION OF SENATE BILL**

**First, second reading and referral**

***SB 109***, adopting the model Drug Dealer Liability Act. (Judiciary)

**ENROLLED BILL AMENDMENT**

***HB 299***, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses.

**Amendment (0098-EBA)**

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.  
in amendment)  
Adopted.

**RECESS**

**(Rep. Graham in the Chair)**

**RESOLUTION**

Rep Liebl offered the following: RESOLVED, that the late filing and drafting of the following bill having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bill numbered 1422, shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.  
Adopted.

**INTRODUCTION OF HOUSE BILL**

**First, second reading and referral**

***HB 1422***, relative to qualifications for persons who negotiate on behalf of the state. (Rep. Burling, Sull 19; Rep. Norelli, Rock 86; Rep. Nordgren, Graf 17; Rep. Keans, Straf 67; Rep. D. Eaton, Ches 2) Executive Departments and Administration

**RECESS**

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.  
Adopted.

## HOUSE JOURNAL No. 3

Thursday, January 22, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

As the eyes of the nation turn toward us, O lover of souls, may our fellow Americans find in us a people passionate to defend and uphold the precious gifts of freedom and liberty bequeathed to us by the sacrifice of women and men of many generations. Bless the work of this honorable House and the membership and staff who labor on behalf of all the citizens of our beloved New Hampshire. Protect and defend the men and women of our military who defend us daily in distant lands, as we especially remember those who have given their lives for our freedom and their loved ones who mourn. Protect and defend also those who stand on guard to protect us at home, especially those who serve in law enforcement and in emergency services. May our service be worthy of their daily sacrifice. Amen

Rep. Herbert D. Richardson led the Pledge of Allegiance.

The National Anthem was sung by Lindsey Finnemore, Johanna Wenger, Nicole Chininis, Christina Rahaim, Dylan Sherry and Benjamin April, members of the A Cappella Choir of Souhegan High School in Amherst.

### LEAVES OF ABSENCE

Reps. Albert, Carlson, Crane, Desmarais, Flanagan, Guay, Hunter, Robert L'Heureux, McDonough-Wallace, Milligan and Scamman, the day, illness.

Reps. Janet Allen, Dewhirst, Flayhan, Hollinger, Katsiantonis, Langone, Lessard, O'Neil, Pantelakos, Priestley, Rollo, Paul Smith, Tholl and Zolla, the day, important business.

### INTRODUCTION OF GUESTS

Roger Van Wert, guest of Rep. Mooney. Betsy Wooster and Laura Beth Goodman, guests of Rep. Bleyler. David Oliver, guest of Rep. Dorsett. Hon. Gregory Carson, guest of Rep. Carson. Members of the 4<sup>th</sup> grade class from Hills-Garrison Elementary School, including Sarah Jasper, daughter of Rep. Jasper, guests of the House.

### ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 299.  
Rep. Currier, Sen. D'Allesandro for the Committee

### COMMITTEE REPORTS

#### REGULAR CALENDAR

#### SPECIAL ORDER

**CACR 2**, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark S. Carter for Education: This amendment has the endorsement of Governor Benson. It seeks to restore the authority of the Legislature over education policy and funding. It endorses the concept that the Legislature must cherish education, and that the representatives of the people are empowered to determine how to cherish it. It was the opinion of the majority of the Education Committee that after ten years without a say, the people must be given a voice at the ballot box in November 2004. Vote 11-7.

#### Amendment (0528h)

Amend the resolution by replacing the title of the resolution with the following:  
Relating to the legislature's authority concerning the content, extent, beneficiaries, level and source of funding of public education.

Providing that the legislature shall have exclusive authority to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing paragraph I with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

Amend the bill by replacing section IV with the following:

IV. That the wording of the question put to the qualified voters shall be:

"Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have exclusive authority under this article to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power pos-



essed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against."

### AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature exclusive authority to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.

Rep. Stephen L'Heureux spoke against.

Amendment failed.

Rep. Mark Carter offered a floor amendment (0105h).

### Floor Amendment (0105h)

Amend the title of the resolution by replacing it with the following:

**RELATING TO:** the legislature's authority concerning the content, extent, beneficiaries, level and source of funding of public education.

**PROVIDING THAT:** the legislature shall have authority (subject to the supreme court's power to review for rational basis) to determine the content, extent, beneficiaries, level and source of funding of public education.

Amend the resolution by replacing all after the resolving clause with the following:

I. That article 83 of the second part of the constitution be amended to read as follows:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.]

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court's power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against.

II. That the above amendment proposed to the constitution be submitted to the qualified voters of the state at the state general election to be held in November, 2004.

III. That the selectmen of all towns, cities, wards and places in the state are directed to insert in their warrants for the said 2004 election an article to the following effect: To decide whether the amendments of the constitution proposed by the 2004 session of the general court shall be approved.

IV. That the wording of the question put to the qualified voters shall be:

"Are you in favor of amending article 83 of the second part of the constitution for the purpose of establishing that it is the prerogative of the people, acting through their democratically elected bodies, the legislature and local school authorities, to determine education policy and set education funding levels, by adding the following highlighted language:

[Art.] 83. [Encouragement of Literature, etc.; Control of Corporations, Monopolies, etc.] Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people: *Provided, nevertheless, that the legislature shall have the authority under this article (subject to the supreme court's power to review for rational basis) to determine, either directly, or through a delegation of power to local school districts, or both, the content, extent, beneficiaries, and level and source of funding of public education* and that no money raised by taxation shall ever be granted or applied for the use of the schools of institutions of any religious sect or denomination. Free and fair competition in the trades and industries is an inherent and essential right of the people and should be protected against all monopolies and conspiracies which tend to hinder or destroy it. The size and functions of all corporations should be so limited and regulated as to prohibit fictitious capitalization and provision should be made for the supervision and government thereof. Therefore, all just power possessed by the state is hereby granted to the general court to enact laws to prevent the operations within the state of all persons and associations, and all trusts and corporations, foreign or domestic, and the officers thereof, who endeavor to raise the price of any article of commerce or to destroy free and fair competition in the trades and industries through combination, conspiracy, monopoly, or any other unfair means; to control and regulate the acts of all such persons, associations, corporations, trusts, and officials doing business within the state; to prevent fictitious capitalization; and to authorize civil and criminal proceedings in respect to all the wrongs herein declared against."

V. That the secretary of state shall print the question to be submitted on a separate ballot or on the same ballot with other constitutional questions. The ballot containing the question shall include 2 squares next to the question allowing the voter to vote "Yes" or "No." If no cross is made in either of the squares, the ballot shall not be counted on the question. The outside of the ballot shall be the same as the regular official ballot except that the words "Questions Relating to Constitutional Amendments proposed by the 2004 General Court" shall be printed in bold type at the top of the ballot.

VI. That if the proposed amendment is approved by 2/3 of those voting on the amendment, it becomes effective when the governor proclaims its adoption.

#### AMENDED ANALYSIS

This constitutional amendment concurrent resolution gives the legislature authority (subject to the supreme court's power to review for rational basis) to determine either directly, or through delegation to local school districts, the content, extent, beneficiaries, level, and source of funding of public education.

Rep. Mark Carter spoke in favor.

Rep. McEachern spoke against.

Rep. Whalley requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0105h).

**YEAS 206 NAYS 147**

**YEAS 206**

**BELKNAP**

Ahern, Omer Jr  
Flanders, Donald  
Rice, Thomas  
Whalley, Michael

Bartlett, Gordon  
Laffam, Robert  
Russell, David

Boyce, Laurie  
Lawton, David  
Thomas, John

Clark, Charles  
Nedeau, Stephen  
Wendelboe, Fran

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Morrow, Harry  
Stevens, Stanley

**CHESHIRE**

Dexter, Judson  
Liebl, George

Fish, Douglas  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

**COOS**

Brady, Mark  
Woodward, David

Pratt, Leighton

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Ingbreton, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert

**HILLSBOROUGH**

Adams, Jarvis  
Balcom, John  
Bouchard, David  
Cail, Kenneth  
Chabot, Robert  
Emerton, Larry  
Gonzalez, Carlos  
Hagan, Barbara  
Hawkins, Ken  
Hopper, Gary  
Kurk, Neal  
McRae, Karen  
Mosher, William  
Pepino, Leo  
Scanlon, Michael  
Tahir, Saghir  
Wheeler, Robert

Allan, Nelson  
Barry, J Gail  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Fields, Dennis  
Goyette, Peter Jr  
Hall, Charles  
Haytayan, Harry Jr  
Infantine, William  
LaFlamme, Paul  
Mercer, Robert  
O'Brien, Lori  
Price, Pamela  
Slocum, Lee  
Tate, Joan

Allen, Timothy  
Batula, Peter  
Bruno, Pierre  
Carter, Mark  
Christiansen, Lars  
Fletcher, Richard  
Graham, John  
Hansen, Ryan  
Hinkle, Peyton  
Jasper, Shawn  
Lefebvre, Roland  
Mooney, Maureen  
Ober, Russell III  
Reeves, Sandra  
Stepanek, Stephen  
Vaillancourt, Steve

Artz, Lawrence  
Bergeron, Jean-Guy  
Buhlman, David  
Cernota, Albert  
Coughlin, Pamela  
Gibson, John  
Greenberg, Gary  
Harrington, Paul  
Holden, Randolph  
Johnson, Lionel  
McElroy, Henry Jr  
Moran, Edward  
Pappas, Marc  
Rowe, Robert  
Sullivan, Jeffrey  
Wheeler, James

**MERRIMACK**

Anderson, Eric  
Field, William  
Kennedy, Richard  
MacKay, James  
Nutter, Edward

Currier, David  
Foley, Albert  
L'Heureux, Stephen  
Marple, Richard  
Oliver, James

Daniels, Eric  
Hess, David  
Langer, Ray  
Maxfield, Roy  
Soltani, Tony

Dunne, Christopher  
Kenison, Leon  
Leber, William  
McCormick, Tom

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
Cooney, Richard  
Doyle, Christopher  
Flanders, John Sr  
Gillick, Thomas  
Holland, James Jr  
Introne, Robert  
Katsakiores, Phyllis  
Letourneau, Robert  
McKinney, Betsy  
Noyes, Richard

Belanger, Ronald  
Camm, Kevin  
Dalrymple, Janeen  
Duffy, James  
Francoeur, Sheila  
Griffin, Mary  
Hughes, Daniel  
Itse, Daniel  
Kelley, Jane  
Major, Norman  
McMahon, Charles  
Packard, Sherman

Bicknell, Elbert  
Carson, Sharon  
DiFruscia, Anthony  
Dumaine, Dudley  
Gilbert, Jeffrey  
Hamel, Albert  
Hutchinson, Karen  
Johnson, Rogers  
Kobel, Rudolph  
Manning, John  
Moore, Benjamin  
Putnam, Ed II

Bridle, Russell  
Clark, Vivian  
Dodge, Robert  
Fesh, Bob  
Gilbert, Karl  
Headd, James  
Ingram, Russell  
Katsakiores, George  
Langley, Jane  
McCann, Richard  
Morris, Richard  
Quandt, Matthew

Roessner, Kurt  
Tufts, J Arthur  
Welch, David  
Winchell, George

Ruffner, Walter  
Varrell, Thomas  
Weldy, Norman Jr

Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

Stone, Joseph  
Weare, E Albert  
Wiley, Robert

## STRAFFORD

Bickford, David  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Musler, George  
Woods, Phyllis

Cataldo, Sam  
Newton, Clifford

Easson, Timothy  
Scott, David

## SULLIVAN

Jones, Constance

Leone, Richard

Rodeschin, Beverly

## NAYS 147

## BELKNAP

Fitzgerald, James

Holbrook, Robert

Pilliod, James

## CARROLL

Philbrick, Donald

## CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

Dunn, James  
Meador, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Espieffs, Peter  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

## COOS

King, Frederick

Mears, Edgar

Poulin, Richard

Theberge, Robert

## GRAFTON

Akins, Ralph  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon  
Williams, Burton

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

## HILLSBOROUGH

Arnold, Thomas Jr  
Clayton, William  
Craig, James  
Elliott, Larry  
Haley, Robert  
Kopka, Angeline  
McHugh, Claire  
Pappas, Christopher  
Shaw, Barbara  
Sweeney, Cynthia

Bergin, Peter  
Clemons, Jane  
Dionne, Kimberley  
Ford, Nancy  
Hallyburton, Margaret  
Lasky, Bette  
Messier, Irene  
Pilote, Maurice  
Spiess, Paul

Brassard, Paul  
Cote, David  
Dokmo, Cynthia  
Gargas, Carolyn  
Irwin, Anne-Marie  
Leach, Edward  
Michon, Stephen  
Ross, Lawrence  
Sullivan, Francis

Buckley, Raymond  
Cote, Peter  
Drisko, Richard  
Gorman, Mary  
Jean, Claudette  
Martin, Mary Ellen  
Movsesian, Lori  
Schulze, Joan  
Sullivan, Peter

## MERRIMACK

Blanchard, Elizabeth  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
Perkins, Randy  
Rush, Deanna

Bouchard, Candace  
DeJoie, John  
Gile, Mary  
Lockwood, Priscilla  
Potter, Frances  
Seldin, Gloria

Brueggemann, Donald  
DeStefano, Stephen  
Hager, Elizabeth  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

Clarke, Claire  
Fraser, Leo Jr  
Hamm, Christine  
Owen, Derek  
Reed, Dennis

## ROCKINGHAM

Bishop, Franklin  
Corbin, Corey  
Norelli, Terie  
Shultis, Elizabeth

Blanchard, MaryAnn  
Gould, Kenneth  
Pitts, Jacqueline  
Splaine, James

Casey, Kimberley  
Johnson, Robert  
Rausch, James  
Vallone, Matthew

Coes, Betsy  
McEachern, Paul  
Robertson, Carl

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Creteau, Irene	Dunlap, Patricia	Grassie, Anne	Heon, Richard
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Knowles, William	Miller, Joseph	Pelletier, Arthur	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis	Wall, Janet

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph
Harris, Sandra	Phinizy, James		

and floor amendment (0105h) was adopted.

The question now being ought to pass as amended.

Rep. Jacobson spoke against and yielded to questions.

Reps. Diamond, Burling and DiFruscia spoke against.

Reps. Mark Carter and Stephen L'Heureux spoke in favor.

Rep. Hess spoke in favor and yielded to questions.

Rep. Whalley requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 186 NAYS 172****YEAS 186****BELKNAP**

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Flanders, Donald	Laflam, Robert	Lawton, David	Nedeau, Stephen
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Morrow, Harry
Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey	Stevens, Stanley

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Royce, H Charles	Smith, Edwin	

**COOS**

Brady, Mark	Pratt, Leighton	Richardson, Herbert	Stohl, Eric
Woodward, David			

**GRAFTON**

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ingretson, Paul	Maybeck, Margie	Sorg, Gregory	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Barry, J Gail	Bergeron, Jean-Guy	Bouchard, David	Brundige, Robert
Bruno, Pierre	Buhlman, David	Cail, Kenneth	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Chabot, Robert	Christiansen, Lars
Coughlin, Pamela	Emerton, Larry	Fields, Dennis	Fletcher, Richard
Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Hagan, Barbara	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Hinkle, Peyton	Hopper, Gary	Infantine, William

Jasper, Shawn  
McElroy, Henry Jr  
Mosher, William  
Pepino, Leo  
Slocum, Lee  
Tate, Joan

Kurk, Neal  
McRae, Karen  
O'Brien, Lori  
Price, Pamela  
Stepanek, Stephen  
Vaillancourt, Steve

LaFlamme, Paul  
Mercer, Robert  
Ober, Russell III  
Reeves, Sandra  
Sullivan, Jeffrey  
Wheeler, James

Luebker, Bernard  
Moran, Edward  
Pappas, Marc  
Scanlon, Michael  
Tahir, Saghir  
Wheeler, Robert

### MERRIMACK

Anderson, Eric  
Hess, David  
Leber, William  
Nutter, Edward

Dunne, Christopher  
Kennedy, Richard  
Marple, Richard  
Oliver, James

Field, William  
L'Heureux, Stephen  
Maxfield, Roy  
Soltani, Tony

Foley, Albert  
Langer, Ray  
McCormick, Tom

### ROCKINGHAM

Allen, Mary  
Cady, Harriet  
Dalrymple, Janeen  
Dumaine, Dudley  
Gilbert, Jeffrey  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Major, Norman  
McMahon, Charles  
Packard, Sherman  
Ruffner, Walter  
Waterhouse, Kevin  
Weyler, Kenneth

Belanger, Ronald  
Camm, Kevin  
Dodge, Robert  
Fesh, Bob  
Gilbert, Karl  
Headd, James  
Introne, Robert  
Katsakiores, Phyllis  
Manning, John  
Moore, Benjamin  
Putnam, Ed II  
Smith, Donald  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Carson, Sharon  
Doyle, Christopher  
Flanders, John Sr  
Gillick, Thomas  
Holland, James Jr  
Itse, Daniel  
Langley, Jane  
McCann, Richard  
Morris, Richard  
Quandt, Matthew  
Stone, Joseph  
Welch, David  
Winchell, George

Bridle, Russell  
Clark, Vivian  
Duffy, James  
Francoeur, Sheila  
Griffin, Mary  
Hughes, Daniel  
Johnson, Rogers  
Letourneau, Robert  
McKinney, Betsy  
Noyes, Richard  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr

### STRAFFORD

Bickford, David  
Musler, George  
Woods, Phyllis

Cataldo, Sam  
Newton, Clifford

Eason, Timothy  
Scott, David

Harrington, Michael  
Twombly, James

### SULLIVAN

Jones, Constance

Leone, Richard

Rodeschin, Beverly

### NAYS 172

### BELKNAP

Fitzgerald, James

Holbrook, Robert

Pilliod, James

### CARROLL

Philbrick, Donald

### CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

Dunn, James  
Meader, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Espiefs, Peter  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

### COOS

King, Frederick

Mears, Edgar

Poulin, Richard

Theberge, Robert

### GRAFTON

Akins, Ralph  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon  
Williams, Burton

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

**HILLSBOROUGH**

Arnold, Thomas Jr	Balcom, John	Baroody, Benjamin	Batula, Peter
Bergin, Peter	Brassard, Paul	Buckley, Raymond	Christensen, D L Chris
Clayton, William	Clemons, Jane	Cote, David	Cote, Peter
Craig, James	Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard
Elliott, Larry	Ford, Nancy	Gargas, Carolyn	Gorman, Mary
Haley, Robert	Hall, Charles	Hallyburton, Margaret	Haytayan, Harry Jr
Holden, Randolph	Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel
Kopka, Angeline	Lasky, Bette	Leach, Edward	Lefebvre, Roland
Malloy, Chris	Martin, Mary Ellen	McHugh, Claire	Messier, Irene
Michon, Stephen	Mooney, Maureen	Movsesian, Lori	Palangas, Eric
Pappas, Christopher	Pilotte, Maurice	Ross, Lawrence	Rowe, Robert
Schulze, Joan	Shaw, Barbara	Spiess, Paul	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia		

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Currier, David	Daniels, Eric	Davis, Frank	DeJio, John
DeStefano, Stephen	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Jacobson, Alf	Kenison, Leon
Lockwood, Priscilla	MacKay, James	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Reardon, Tara	Reed, Dennis
Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane	

**ROCKINGHAM**

Bishop, Franklin	Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy
Cooney, Richard	Corbin, Corey	DiFruscia, Anthony	Gleason, John
Gould, Kenneth	Hutchinson, Karen	Johnson, Robert	Kelley, Jane
Kobel, Rudolph	McEachern, Paul	Norelli, Terie	Pitts, Jacqueline
Rausch, James	Robertson, Carl	Shultis, Elizabeth	Splaine, James
Tufts, J Arthur	Vallone, Matthew		

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Campbell, W Packy	Creteau, Irene	Dunlap, Patricia	Grassie, Anne
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Pelletier, Arthur
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis
Wall, Janet			

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph
Harris, Sandra	Phinizy, James		

and CACR 2 failed to pass, lacking the constitutionally required three-fifths vote.

**CACR 9**, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.** Rep. Alf E. Jacobson for the Majority of Judiciary: This bill seeks to alter fundamentally the current life appointment system to a definite term of seven years later amended to ten-year terms. Since no evidence that the current appointment system has failed the people was offered to the committee, the committee voted the proposed CACR 9, as amended, Inexpedient to Legislate. One of the basic concerns was that judicial appointments, based on a seven- or ten-year method, may increase the political climate with judicial appointments. Further, many members who would have otherwise supported the ten-year term voted against the bill because the new retirement system was not

compatible with the ten-year term. The term of ten years with no vesting after ten years would discourage younger applicants for a judgeship. Vote 11-6.

Rep. James E. Wheeler for the Minority of Judiciary: In order to better ensure quality in our judiciary, the minority believes that this proposal for a judicial term is essential. We believe that a judge who is aware that his or her term is going to expire and to have any possibility of re-nomination will have to be more aware of the way they treat litigants, will treat litigants more courteously, and will give the people of New Hampshire a more responsive judiciary. Furthermore, we are of the opinion that to give the people of New Hampshire the best judiciary possible, we should give the Governor a chance every ten years to examine a judge to see if they are the best person for the job, as the minority amendment does. We also reject the argument that there will be a lack of qualified candidates for a judicial position just because it is only for ten years – ten years is more job security than most people have. The minority believes this bill Ought to Pass with Amendment.

Reps. James Wheeler and Soltani spoke against.

Reps. Rowe and Jacobson spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 212 NAYS 140

### YEAS 212

#### BELKNAP

Bartlett, Gordon	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Nedeau, Stephen	Pilliod, James	Russell, David	

#### CARROLL

Babson, David Jr	Derby, Mark	Dickinson, Howard	Hatch, Paul
McConkey, Mark	Morrow, Harry	Philbrick, Donald	Stevens, Stanley

#### CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Hunt, John	Liebl, George	Manning, Joseph
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Slack, Pamela	Smith, Edwin	Tilton, Anna	Webber, Amy
Weed, Charles			

#### COOS

King, Frederick	Mears, Edgar	Poulin, Richard	Theberge, Robert
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#### GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Eaton, Stephanie
Hammond, Lee	Naro, Debra	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter	Sorg, Gregory	Williams, Burton

#### HILLSBOROUGH

Arnold, Thomas Jr	Baroody, Benjamin	Bergin, Peter	Brassard, Paul
Clayton, William	Clemons, Jane	Cote, David	Cote, Peter
Coughlin, Pamela	Craig, James	Dokmo, Cynthia	Drisko, Richard
Emerton, Larry	Fletcher, Richard	Ford, Nancy	Gargas, Carolyn
Gorman, Mary	Graham, John	Greenberg, Gary	Haley, Robert
Hallyburton, Margaret	Hawkins, Ken	Haytayan, Harry Jr	Irwin, Anne-Marie
Jean, Claudette	Johnson, Lionel	Kopka, Angeline	Kurk, Neal
Lasky, Bette	Leach, Edward	Lefebvre, Roland	Malloy, Chris
Mercer, Robert	Messier, Irene	Michon, Stephen	Mooney, Maureen
Movesian, Lori	Palangas, Eric	Pappas, Christopher	Pilotte, Maurice



Price, Pamela  
Scanlon, Michael  
Sullivan, Francis

Reeves, Sandra  
Schulze, Joan  
Sweeney, Cynthia

Ross, Lawrence  
Shaw, Barbara  
Tahir, Saghir

Rowe, Robert  
Spiess, Paul  
Wheeler, Robert

### MERRIMACK

Anderson, Eric  
Currier, David  
Dunne, Christopher  
Hager, Elizabeth  
Kenison, Leon  
Maxfield, Roy  
Reardon, Tara  
Wallner, Mary Jane

Blanchard, Elizabeth  
Davis, Frank  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Osborne, Jessie  
Reed, Dennis

Bouchard, Candace  
DeJoie, John  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
Perkins, Randy  
Rush, Deanna

Brueggemann, Donald  
DeStefano, Stephen  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Potter, Frances  
Seldin, Gloria

### ROCKINGHAM

Belanger, Ronald  
Casey, Kimberley  
Dalrymple, Janeen  
Gilbert, Jeffrey  
Griffin, Mary  
Ingram, Russell  
Kelley, Jane  
McEachern, Paul  
Pitts, Jacqueline  
Stone, Joseph

Bishop, Franklin  
Coes, Betsy  
Dodge, Robert  
Gillick, Thomas  
Hamel, Albert  
Johnson, Robert  
Kobel, Rudolph  
Morris, Richard  
Robertson, Carl  
Vallone, Matthew

Blanchard, MaryAnn  
Cooney, Richard  
Flanders, John Sr  
Gleason, John  
Headd, James  
Katsakiores, George  
Langley, Jane  
Norelli, Terie  
Shultis, Elizabeth

Bridle, Russell  
Corbin, Corey  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Katsakiores, Phyllis  
Major, Norman  
Noyes, Richard  
Splaine, James

### STRAFFORD

Berube, Roger  
Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Spang, Judith  
Wall, Janet

Brown, Julie  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Katherine

Callaghan, Frank  
Grassie, Anne  
Kaen, Naida  
Musler, George  
Smith, Marjorie  
Taylor, Kathleen

Campbell, W Packy  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Snyder, Clair  
Vachon, Dennis

### SULLIVAN

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Jones, Constance

Cloutier, John  
Franklin, Peter  
Leone, Richard

Donovan, Thomas  
Harris, Joseph  
Phinizy, James

### NAYS 140

### BELKNAP

Ahern, Omer Jr  
Rice, Thomas

Boyce, Laurie  
Thomas, John

Clark, Charles  
Wendelboe, Fran

Lawton, David  
Whalley, Michael

### CARROLL

Brown, Carolyn  
Patten, Betsey

Kenney, Bettie

Mock, Henry

Olimpio, J Lisbeth

### CHESHIRE

Dexter, Judson

Laurent, John

### COOS

Brady, Mark  
Woodward, David

Pratt, Leighton

Richardson, Herbert

Stohl, Eric

### GRAFTON

Alger, John  
Gilman, G Michael  
Maybeck, Margie

Barker, Robert  
Gionet, Edmond

Dorsett, Andrew  
Giuda, Robert

Dudley, Terri  
Ingbretson, Paul

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Balboni, Michael	Balcom, John	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Bouchard, David	Brundige, Robert	Bruno, Pierre
Buckley, Raymond	Buhlman, David	Cail, Kenneth	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Christensen, D L Chris	Christiansen, Lars
Dionne, Kimberley	Elliott, Larry	Fields, Dennis	Gibson, John
Gonzalez, Carlos	Goyette, Peter Jr	Hagan, Barbara	Hall, Charles
Hansen, Ryan	Harrington, Paul	Hinkle, Peyton	Holden, Randolph
Hopper, Gary	Infantine, William	Jasper, Shawn	LaFlamme, Paul
Luebker, Bernard	Martin, Mary Ellen	McElroy, Henry Jr	McHugh, Claire
McRae, Karen	Moran, Edward	Mosher, William	O'Brien, Lori
Ober, Russell III	Pappas, Marc	Pepino, Leo	Slocum, Lee
Stepanek, Stephen	Sullivan, Jeffrey	Sullivan, Peter	Tate, Joan
Vaillancourt, Steve	Wheeler, James		

**MERRIMACK**

Daniels, Eric	Field, William	Foley, Albert	Kennedy, Richard
Langer, Ray	Leber, William	Marple, Richard	McCormick, Tom
Nutter, Edward	Oliver, James	Soltani, Tony	

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Cady, Harriet	Camm, Kevin
Clark, Vivian	DiFruscia, Anthony	Doyle, Christopher	Duffy, James
Dumaine, Dudley	Fesh, Bob	Gilbert, Karl	Hughes, Daniel
Hutchinson, Karen	Introne, Robert	Itse, Daniel	Johnson, Rogers
Letourneau, Robert	Manning, John	McCann, Richard	McKinney, Betsy
McMahon, Charles	Packard, Sherman	Putnam, Ed II	Quandt, Matthew
Rausch, James	Roessner, Kurt	Smith, Donald	Tufts, J Arthur
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert	Winchell, George

**STRAFFORD**

Bemis, Alan	Bickford, David	Cataldo, Sam	Easson, Timothy
Harrington, Michael	Newton, Clifford	Scott, David	Twombly, James
Woods, Phyllis			

**SULLIVAN**

Rodeschin, Beverly  
and the majority committee report was adopted.

**HB 747**, establishing the crime victim employment leave act. **INEXPEDIENT TO LEGISLATE**  
Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: Although the committee saw merit in the bill, there was no hard data or any study done to show that it was necessary. Vote 11-7.  
Reps. Peter Sullivan and DeJoie spoke against.  
Rep. Adams spoke in favor and yielded to questions.  
Rep. Newton spoke in favor.  
Rep. Peter Sullivan requested a roll call; sufficiently seconded.  
The question being adoption of the committee report.

**YEAS 223 NAYS 129****YEAS 223****BELKNAP**

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Lawton, David
Nedeau, Stephen	Rice, Thomas	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry

Brown, Carolyn  
Kenney, Bettie  
Patten, Betsey

Derby, Mark  
McConkey, Mark  
Philbrick, Donald

Dickinson, Howard  
Morrow, Harry  
Stevens, Stanley

**CHESHIRE**

Dexter, Judson  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

Liebl, George

**COOS**

Brady, Mark  
Stohl, Eric

King, Frederick  
Woodward, David

Pratt, Leighton

Richardson, Herbert

**GRAFTON**

Akins, Ralph  
Dudley, Terri  
Giuda, Robert  
Williams, Burton

Alger, John  
Eaton, Stephanie  
Ingbretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Carter, Mark  
Christiansen, Lars  
Fields, Dennis  
Gibson, John  
Hall, Charles  
Hawkins, Ken  
Jasper, Shawn  
Luebckert, Bernard  
Messier, Irene  
Pappas, Marc  
Ross, Lawrence  
Spiess, Paul  
Tate, Joan

Allen, Timothy  
Balcom, John  
Bergeron, Jean-Guy  
Buhlman, David  
Cernota, Albert  
Coughlin, Pamela  
Fletcher, Richard  
Goyette, Peter Jr  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Kurk, Neal  
McElroy, Henry Jr  
Moran, Edward  
Pepino, Leo  
Rowe, Robert  
Stepanek, Stephen  
Vaillancourt, Steve

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Cail, Kenneth  
Chabot, Robert  
Drisko, Richard  
Ford, Nancy  
Graham, John  
Hansen, Ryan  
Hinkle, Peyton  
LaFlamme, Paul  
McRae, Karen  
Mosher, William  
Price, Pamela  
Scanlon, Michael  
Sullivan, Jeffrey  
Wheeler, James

Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Emerton, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Harrington, Paul  
Infantine, William  
Leach, Edward  
Mercer, Robert  
Ober, Russell III  
Reeves, Sandra  
Slocum, Lee  
Tahir, Saghir  
Wheeler, Robert

**MERRIMACK**

Anderson, Eric  
Field, William  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Currier, David  
Foley, Albert  
Jacobson, Alf  
Langer, Ray  
Marple, Richard  
Oliver, James

Daniels, Eric  
Fraser, Leo Jr  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Reed, Dennis

Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom  
Soltani, Tony

**ROCKINGHAM**

Allen, Mary  
Bridle, Russell  
Clark, Vivian  
Dodge, Robert  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Hughes, Daniel  
Itse, Daniel  
Katsakiores, Phyllis

Belanger, Ronald  
Cady, Harriet  
Cooney, Richard  
Doyle, Christopher  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Hutchinson, Karen  
Johnson, Robert  
Kobel, Rudolph

Bicknell, Elbert  
Camm, Kevin  
Dalrymple, Janeen  
Duffy, James  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Ingram, Russell  
Johnson, Rogers  
Langley, Jane

Bishop, Franklin  
Casey, Kimberley  
DiFruscia, Anthony  
Dumaine, Dudley  
Gilbert, Jeffrey  
Gould, Kenneth  
Holland, James Jr  
Introne, Robert  
Katsakiores, George  
Letourneau, Robert

Major, Norman  
McMahon, Charles  
Packard, Sherman  
Robertson, Carl  
Tufts, J Arthur  
Welch, David

Manning, John  
Moore, Benjamin  
Putnam, Ed II  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr

McCann, Richard  
Morris, Richard  
Quandt, Matthew  
Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

McKinney, Betsy  
Noyes, Richard  
Rausch, James  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

### STRAFFORD

Bemis, Alan  
Cataldo, Sam  
Keans, Sandra  
Twombly, James

Bickford, David  
Dunlap, Patricia  
Musler, George  
Woods, Phyllis

Brown, Julie  
Easson, Timothy  
Newton, Clifford

Campbell, W Packy  
Harrington, Michael  
Scott, David

### SULLIVAN

Flint, Gordon Sr

Rodeschin, Beverly

### NAYS 129

### BELKNAP

Pilliod, James

### CARROLL

Olimpio, J Lisbeth

### CHESHIRE

Allen, Peter  
Fish, Douglas  
Pratt, Irene  
Slack, Pamela

Dunn, James  
Meader, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Espiefs, Peter  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

### COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

### GRAFTON

Almy, Susan  
Diamond, Estelle  
Scovner, Nancy

Benn, Bernard  
Hammond, Lee  
Sokol, Hilda

Bleyler, Ruth  
Naro, Debra  
Solomon, Peter

Cooney, Mary  
Nordgren, Sharon

### HILLSBOROUGH

Allan, Nelson  
Buckley, Raymond  
Cote, Peter  
Elliott, Larry  
Haley, Robert  
Jean, Claudette  
Lefebvre, Roland  
Michon, Stephen  
Palangas, Eric  
Shaw, Barbara

Baroody, Benjamin  
Clayton, William  
Craig, James  
Gonzalez, Carlos  
Holden, Randolph  
Johnson, Lionel  
Malloy, Chris  
Mooney, Maureen  
Pappas, Christopher  
Sullivan, Francis

Bergin, Peter  
Clemmons, Jane  
Dionne, Kimberley  
Gorman, Mary  
Hopper, Gary  
Kopka, Angeline  
Martin, Mary Ellen  
Movsesian, Lori  
Pilotte, Maurice  
Sullivan, Peter

Brassard, Paul  
Cote, David  
Dokmo, Cynthia  
Hagan, Barbara  
Irwin, Anne-Marie  
Lasky, Bette  
McHugh, Claire  
O'Brien, Lori  
Schulze, Joan  
Sweeney, Cynthia

### MERRIMACK

Blanchard, Elizabeth  
DeJoie, John  
Hamm, Christine  
Reardon, Tara

Bouchard, Candace  
DeStefano, Stephen  
Osborne, Jessie  
Rush, Deanna

Brueggemann, Donald  
French, Barbara  
Perkins, Randy  
Seldin, Gloria

Davis, Frank  
Gile, Mary  
Potter, Frances  
Wallner, Mary Jane

### ROCKINGHAM

Blanchard, MaryAnn  
McEachern, Paul  
Splaine, James

Coes, Betsy  
Norelli, Terie  
Vallone, Matthew

Corbin, Corey  
Pitts, Jacqueline  
Winchell, George

Kelley, Jane  
Shultis, Elizabeth

**STRAFFORD**

Berube, Roger  
Heon, Richard  
Knowles, William  
Schmidt, Peter  
Taylor, Katherine

Callaghan, Frank  
Hofemann, Roland  
Miller, Joseph  
Smith, Marjorie  
Taylor, Kathleen

Creteau, Irene  
Johnson, Nancy  
Pelletier, Arthur  
Snyder, Clair  
Wall, Janet

Grassie, Anne  
Kaen, Naida  
Rous, Emma  
Spang, Judith

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Jones, Constance

Burling, Peter  
Franklin, Peter  
Leone, Richard

Cloutier, John  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra

and the committee report was adopted.  
The House recessed at 12:10 p.m.

**RECESS****(Speaker Chandler in the Chair)**

The House reconvened at 1:15 p.m.

**REGULAR CALENDAR (CONT'D)**

**HB 803-FN-A-L**, establishing the New Hampshire downtown development program. **WITHOUT RECOMMENDATION**

Rep. Patten moved Ought to Pass with Amendment and offered a floor amendment (2550h).

**Floor Amendment (2550h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the establishment of municipal economic development and revitalization districts by municipalities.

Amend the bill by replacing all after the enacting clause with the following:

1 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed ~~[1½]~~ 5 percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed ~~[3]~~ 10 percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed ~~[5]~~ 8 percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed ~~[10]~~ 16 percent of the most recent total assessed value of taxable real property in the municipality.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill changes the limitations for municipalities that may create a municipal economic development and revitalization district under RSA 162-K.

Rep. Patten spoke in favor.

On a division vote, 239 members having voted in the affirmative and 62 in the negative, floor amendment (2550h) was adopted.

Rep. Gillick offered a floor amendment (2571h).

**Floor Amendment (2571h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose and Findings. New Hampshire's urban, town, and village centers ("downtowns") are of critical importance to maintaining the long-term health and livability of our communities and our state. Our downtowns are an integral part of New Hampshire's social fabric. However, the trend toward low-density, automobile-dependent sprawl development that has taken root over the past decades has left many of our downtowns struggling to reach their full potential. The goal of this chapter is to address the public purpose and need to provide new tools for communities to encourage the development and revitalization of downtowns that are economically, culturally, and socially

vibrant, pedestrian-friendly places in which to live, work, and recreate. This chapter is premised on the notion that communities that are committed to enhancing the viability and livability of their downtowns should be provided new tools to foster downtown development and revitalization through enhanced access to funding and through the authority to implement new funding and planning mechanisms.

2 New Chapter; New Hampshire Downtown Development Program. Amend RSA by inserting after chapter 162-O the following new chapter:

#### CHAPTER 162-P

#### NEW HAMPSHIRE DOWNTOWN DEVELOPMENT PROGRAM

162-P:1 Definitions. In this chapter:

I. "Designated downtown" means all or a portion of an urban, town, or village center designated by the local legislative body of a municipality for purposes of encouraging compact, mixed-use, pedestrian-friendly development consistent with the purpose and goal of this chapter.

II. "Downtown development and revitalization" means development, infrastructure improvements, operations, and planning activities that foster the creation or maintenance of a designated downtown that contains a mix of residential, retail, and commercial uses laid out in a compact, pedestrian-friendly manner. Such development and revitalization includes, but is not limited to, public or private projects that:

- (a) Rehabilitate and reuse existing buildings within the designated downtown;
- (b) Develop vacant lots, including brownfields, within the designated downtown;
- (c) Increase the availability of housing within the designated downtown;
- (d) Improve transportation infrastructure and systems in a manner that fosters a pedestrian-friendly environment within the designated downtown; or
- (e) Increase the capacity of infrastructure, that may or may not be located in the designated downtown, to support higher density development within the designated downtown.

III. "Downtown development and revitalization fund" means a fund established by a city or town with a designated downtown, to be administered by the local downtown committee, as designated agent, for the sole purpose of fostering, supporting, and funding downtown development and revitalization within the designated downtown, consistent with goals of the downtown development and revitalization strategy adopted by the municipality. Such funds may be used as partial funding to support an application to the New Hampshire Main Street Center for designation as a Main Street Community, and as funding to support downtown development and revitalization projects under the Main Street program. Such funds also may be used to provide loans or other assistance for downtown development and revitalization projects on private property within the designated downtown, or on public property subsequently sold or leased to private interests, provided that the local downtown committee, following a public hearing, determines that the project will serve a public use and provide a public benefit, that it will not be primarily of benefit to private persons or uses even though such benefits may incidentally result, and that it will directly further the strategy adopted by the city or town for fostering downtown development and revitalization within the designated downtown and the public purpose of this chapter. A downtown development and revitalization fund within the meaning of this chapter shall be continuous and non-lapsing, such that any and all revenues placed in such a fund shall be allowed to accumulate without lapsing to a municipal general fund.

IV. "Downtown transportation projects" means any transportation infrastructure or operations designed to improve access to or within a designated downtown, such as through enhanced parking, public transit, and bicycle/pedestrian facilities, as well as streetscape improvements and measures designed to control or slow traffic to enhance pedestrian safety. Such projects shall not interfere with the character and pedestrian environment of the designated downtown.

V. "Local downtown committee" means a committee appointed by the governing body, or a subcommittee of a planning board, municipal agency, or governing body established for the purpose of recommending to the local legislative body the area to be delineated as a designated downtown, and a strategy for fostering downtown development and revitalization within the designated area.

162-P:2 Establishment of Designated Downtowns by Local Legislative Bodies.

I. A municipality may establish a designated downtown for purposes of this chapter by:

(a) Establishing a local downtown committee, which shall develop and submit to the local legislative body a recommendation of the area to be delineated as a designated downtown, as well as a strategy for fostering downtown development and revitalization within the designated down-

town. Prior to submitting its recommendations to the local legislative body, the local downtown committee shall hold at least one public hearing to discuss the boundaries of the designated downtown and the strategy for fostering downtown development and revitalization within it.

(b) Designating an appropriate area as a designated downtown, and adopting a strategy for fostering downtown development and revitalization within the designated area. This shall be accomplished in the following manner:

(i) In a town, the questions whether to establish a particular designated downtown, and whether to adopt a strategy for fostering downtown development and revitalization therein, shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(ii) In a city or a town with a town council, the legislative body may consider and act upon the questions in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the questions on the official ballot for any regular municipal election.

II. No area of a city or town shall be deemed a designated downtown for purposes of this chapter unless and until:

(a) The boundaries of the area to be established as a designated downtown are delineated on a map adopted as part of the municipality's zoning ordinance.

(b) There is established a special downtown zoning district, local historic district, central business district or downtown overlay district that is co-extensive with the designated downtown, or of which the designated downtown is a part. Such district or districts shall contain provisions allowing or encouraging a mix of residential, retail, and commercial uses in a compact, pedestrian-friendly manner consistent with the goal of downtown development and revitalization within the meaning of this chapter. A designated downtown shall not include areas not contained within one or more of the above districts.

(c) There is a local downtown committee that is responsible for implementing the downtown development and revitalization strategy, including efforts to adopt and implement tools provided in this chapter, in the short and long-term.

III. Any municipality that has established a designated downtown shall notify the office of state planning and energy programs of such designation.

IV. Official designation of a downtown within the meaning of this chapter shall expire 5 years from the date of designation. Any municipality may renew designation of the downtown prior to a 5-year expiration, to continue the designation in full force and effect, by following the procedures set forth in paragraphs I-III of this section, and may do so unlimited times. Any legislation, planning tools, or programs adopted by a municipality by virtue of its designation of a downtown, including the establishment of a downtown development and revitalization fund and any moneys contained therein, shall continue from one 5-year period to subsequent, consecutive 5-year periods. If a municipality does not renew designation prior to the expiration of a 5-year period, any legislation, tools, or programs adopted by a municipality by virtue of its designation of a downtown, including any downtown development and revitalization fund and moneys contained therein, shall remain in effect for a period of one year following the 5-year expiration date, during which time a municipality's designation status may be renewed pursuant to the procedures set forth in paragraphs I-III of this section, except that a municipality may terminate its designation status at an earlier time, in the same manner in which such status was adopted. If a municipality does not renew designation status within one year of a 5-year expiration date, or terminates the designation, any funding mechanisms, planning tools, or programs established solely by virtue of this chapter shall terminate, except that any money in a downtown development and revitalization fund shall continue to be used for downtown revitalization and development purposes.

162-P:3 Priority Consideration for Grant and Loan Programs.

I. Consistent with the policy of RSA 9-B and the provisions of RSA 9-B:4, all state agencies may, when awarding grants or providing funding assistance, give priority consideration to projects that contribute to downtown development and revitalization in designated downtowns.

II. To obtain priority consideration in applications for grants or funding assistance, a municipality shall provide, with any such funding application, documentation of the establishment of a designated downtown. Such documentation shall consist of documentation of the official local

legislative action establishing the designated downtown, a copy of a map delineating the designated downtown, a list of members of the local downtown development committee and a statement of their support for the funding request, and a copy of the municipality's downtown development and revitalization strategy.

III. For purposes of this section, "priority consideration" means that a project's contribution to downtown development and revitalization in a designated downtown shall be a factor weighing in favor of an application for funding or other financial assistance. Priority consideration shall not require an agency to grant a request in all circumstances; however, all other factors being equal, it may result in a successful funding application for a project contributing to downtown development and revitalization in a designated downtown, as compared to projects not located within or otherwise enhancing a designated downtown. When a project that contributes to downtown development and revitalization in a designated downtown is unsuccessful in an application for funding assistance, the agency rendering the unfavorable decision shall explain, in writing, why the project was not funded.

#### 162-P:4 Revenue Plan; Local Option.

I. The city or town in which a designated downtown is located may adopt a revenue plan, dedicated to downtown development and revitalization. Revenues shall be deposited in a continuous, non-lapsing downtown development and revitalization fund, to be administered by the local downtown committee, as designated agent. The annual report of any municipality adopting a revenue plan shall contain a financial report relative to the administration of the downtown development and revitalization fund. Such financial report shall include an accounting of the amount and source of revenues within the fund, and the amount and purpose of the expenditures, including the manner in which such expenditures further the goals of the downtown development and revitalization strategy adopted by the municipality. Revenue sources for the fund may include one or more of the following:

(a) Dedication of a portion of revenues collected pursuant to the land use change tax under RSA 79-A:25, II.

(b) A surcharge on motor vehicle registration fees of up to \$10 per vehicle to support downtown transportation projects, under RSA 261:153, VII.

(c) A surcharge of up to \$100 per 1,000 square feet on building permits issued by the municipality for commercial and/or residential structures located outside the designated downtown.

(d) General fund appropriations, donations, public or private grants, and other revenue funds, not specifically designated, including fines and forfeitures for violation of municipal ordinances.

II. Any town or city may adopt the provisions of paragraph I in the following manner:

(a) In a town, the question shall be placed on the warrant of a special or annual town meeting, by the governing body or by petition pursuant to RSA 39:3. A public hearing shall be held at least 15 but not more than 60 days prior to the vote.

(b) In a city or a town with a town council, the legislative body may consider and act upon the question in accordance with its normal procedures for passage of resolutions, ordinances, and other legislation. In the alternative, the legislative body of such city or town may vote to place the question on the official ballot for any regular municipal election.

III. The vote shall specify the provisions of the revenue plan provided in paragraph I. The revenue plan shall take effect in the tax year beginning April 1 following its adoption.

IV. A municipality may rescind all or a portion of any revenue plan established pursuant to this section in the manner described in paragraph II.

162-P:5 Enhanced Planning Tools; Local Option. A municipality that includes a designated downtown may, with the consent of the local governing body of the municipality:

I. Assess the property owners of historic buildings within the designated downtown that are substantially rehabilitated, at the pre-rehabilitation assessed value, for a period of up to 10 years. For purposes of this section, historic building means any building listed on, or eligible for listing on, the national or state historic register, or any building designated by a local historic district commission.

II. Establish speed limits of less than 25 miles-per-hour on state and local roads within the designated downtown.

#### 162-P:6 Priority Consideration for the Siting of State Buildings and Programs.

I. State agencies seeking to lease, expand, or locate offices or other buildings appropriate for downtowns shall coordinate with the department of administrative services to give priority consideration to designated downtowns, with detailed consideration given to the leasing or use of



existing structures as a first priority, and the construction of new structures within a designated downtown as a second priority. In constructing new buildings within a designated downtown, state agencies shall strive to adhere to applicable local regulations to ensure that new construction is consistent with the scale and character of the surrounding building environment and the city or town's goals for downtown development and revitalization.

II. In this section, "priority consideration" means that qualification status shall be a factor weighing heavily in favor of continuing the lease or use of existing offices and buildings, or siting new or expanded offices or buildings, within a designated downtown. Although priority consideration shall not mandate the retention or siting of offices or buildings within a designated downtown, the relevant state agency, in coordination with the department of administrative services, shall give detailed consideration to designated downtowns and, if electing to relocate or construct new offices or buildings in locations that are not designated downtowns, shall explain its decision in writing to the local downtown committee for the designated downtown, and to the council on resources and development.

3 State Economic Growth, Resource, Protection, and Planning Policy; Expenditure of Funds; Priority Consideration for Designated Downtowns. Amend RSA 9-B:4 to read as follows:

9-B:4 Expenditure of State or Federal Funds. All state agencies shall give due consideration to the state's policy on smart growth under RSA 9-B:2 when providing advice or expending state or federal funds, for their own use or as pass-through grants, for public works, transportation, or major capital improvement projects, and for the construction, rental, or lease of facilities. The intent of this action is that new investments and grants for existing sites and buildings in existing community centers will be given preference over investments in outlying areas where that is a practical solution for the use and community in question. *All state agencies may give priority consideration, as defined in RSA 162-P:3, III, to projects that contribute to downtown development and revitalization in designated downtowns, within the meaning of RSA 162-P.*

4 New Paragraph; Land Use Change Tax; Local Option to Dedicate to Downtown Development and Revitalization. Amend RSA 79-A:25,II to read as follows:

II. The legislative body of the town or city may, by majority vote, elect to place the whole or a specified percentage, amount, or any combination of percentage and amount, of the revenues of all future payments collected pursuant to this chapter in a conservation fund in accordance with RSA 36-A:5, III, *and/or in a downtown development and revitalization fund pursuant to RSA 162-P:4.* The whole or specified percentage or amount, or percentage and amount, of such revenues shall be deposited in the conservation fund *and/or downtown development and revitalization fund* at the time of collection.

5 New Paragraph; Title and Registration; Fees for Registration Permits; Additional Fee for Downtown Development. Amend RSA 261:153 by inserting after paragraph VI the following new paragraph:

VII. Pursuant to RSA 162-P:4, I(b), a city or town that includes a qualified downtown may direct the city clerk or town clerk to collect, in addition to the fees imposed in RSA 261:153, an additional fee, not to exceed \$10 per vehicle, the revenues from which shall be deposited in a downtown development and revitalization fund and used to support downtown transportation projects under RSA 162-P.

6 Establishment of State Speed Zones; Exception for Designated Downtowns. Amend RSA 265:62, IV to read as follows:

IV.(a) The commissioner of transportation, upon the petition of the governing body of a municipality, shall determine if any prima facie speed limit hereinbefore set forth should be reduced to provide reasonable and safe conditions upon any part of the state highway system within the compact part of cities or towns; provided, however, the resulting speed limit *for parts of the state highway system not located within designated downtowns, as defined in RSA 162-P:1*, shall not be less than 25 miles per hour.

(b) The petition shall designate the area of the state highway system and the reasons for the reduction in the speed limit. The review of the petition shall include an engineering and traffic investigation and consultation with the petitioners. The commissioner shall provide the petitioners, in writing, the results of his findings. The commissioner may recommend a decrease in the posted prima facie speed limit, but, ~~[in no case shall the resulting speed limit be]~~ *with the exception of areas of the state highway system located within designated downtowns, as defined in RSA 162-P:1, the resulting speed limit shall not be* below 25 miles per hour.

7 New Subparagraph; Alteration of Limits; Local Authority to Set Speed Limit in Designated Downtown. Amend RSA 265:63, I by inserting after subparagraph (d) the following new subparagraph:

(d) Decreases the limit within any designated downtown, as defined in RSA 162-P:1.

8 Establishment of Districts; Limitations. Amend RSA 162-K:5, I and II to read as follows:

I. The total acreage included in any one development district when designated shall not exceed [~~1½~~] **5** percent of the total acreage of the municipality, and when added to the total current acreage within the development districts for which bonds remain outstanding shall not exceed [~~3~~] **10** percent of the total acreage of the municipality.

II. The total assessed value of taxable real property of any one development district when designated shall not exceed [~~5~~] **8** percent of the most recent total assessed value of taxable real property in the municipality, and when added to the current total assessed value of taxable real property within development districts for which bonds remain outstanding, shall not exceed [~~10~~] **16** percent of the most recent total assessed value of taxable real property in the municipality.

9 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes the New Hampshire downtown development program in which municipalities choosing to designate their downtown or town or village center for participation in the program may receive priority consideration for state grants and loans and siting of government facilities, and are provided local options to adopt planning tools and revenue raising measures dedicated to downtown development and revitalization.

The bill also changes the limitations for municipalities that may create a municipal economic and development district under RSA 162-K.

Rep. Gillick spoke in favor.

Rep. Hughes spoke against and yielded to questions.

Rep. Schmidt spoke in favor and yielded to questions.

Rep. Buhlman requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (2571h).

### YEAS 145 NAYS 197

#### YEAS 145

#### BELKNAP

Flanders, Donald	Laflam, Robert	Russell, David
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#### CARROLL

Derby, Mark	McConkey, Mark	Olimpio, J Lisbeth
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#### CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Liebl, George	Meador, David	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Pratt, John	Richardson, Barbara	Robertson, Timothy
Slack, Pamela	Tilton, Anna	Webber, Amy	Weed, Charles

#### COOS

King, Frederick	Mears, Edgar	Poulin, Richard	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Theberge, Robert	

#### GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Hammond, Lee
Naro, Debra	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Williams, Burton		

#### HILLSBOROUGH

Baroody, Benjamin	Bergin, Peter	Buckley, Raymond	Carter, Mark
Christensen, D L Chris	Clayton, William	Clemons, Jane	Cote, David

Cote, Peter  
Gorman, Mary  
Infantine, William  
Lasky, Bette  
Martin, Mary Ellen  
Palangas, Eric  
Schulze, Joan

Craig, James  
Haley, Robert  
Irwin, Anne-Marie  
Leach, Edward  
Michon, Stephen  
Pappas, Christopher  
Shaw, Barbara

Dokmo, Cynthia  
Hallyburton, Margaret  
Jean, Claudette  
Lefebvre, Roland  
Movsesian, Lori  
Pilotte, Maurice  
Sullivan, Francis

Ford, Nancy  
Holden, Randolph  
Kopka, Angeline  
Malloy, Chris  
O'Brien, Lori  
Scanlon, Michael  
Sullivan, Peter

### MERRIMACK

Blanchard, Elizabeth  
DeJoie, John  
Hamm, Christine  
Perkins, Randy

Brueggemann, Donald  
DeStefano, Stephen  
Jacobson, Alf  
Potter, Frances

Clarke, Claire  
French, Barbara  
Kenison, Leon  
Rush, Deanna

Davis, Frank  
Gile, Mary  
Osborne, Jessie  
Wallner, Mary Jane

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Blanchard, MaryAnn  
Coes, Betsy  
Gillick, Thomas  
Norelli, Terie  
Shultis, Elizabeth

Bridle, Russell  
Cooney, Richard  
Gleason, John  
Pitts, Jacqueline  
Splaine, James

Carson, Sharon  
DiFruscia, Anthony  
Gould, Kenneth  
Robertson, Carl  
Vallone, Matthew

Casey, Kimberley  
Gilbert, Jeffrey  
McEachern, Paul  
Roessner, Kurt

### STRAFFORD

Bemis, Alan  
Campbell, W Packy  
Hofemann, Roland  
Miller, Joseph  
Smith, Marjorie

Berube, Roger  
Creteau, Irene  
Johnson, Nancy  
Pelletier, Arthur  
Snyder, Clair

Brown, Julie  
Grassie, Anne  
Kaen, Naida  
Rous, Emma  
Spang, Judith

Callaghan, Frank  
Heon, Richard  
Keans, Sandra  
Schmidt, Peter  
Wall, Janet

### SULLIVAN

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Leone, Richard

Cloutier, John  
Franklin, Peter  
Phinizy, James

Donovan, Thomas  
Harris, Joseph

### NAYS 197

### BELKNAP

Ahern, Omer Jr  
Holbrook, Robert  
Rice, Thomas

Bartlett, Gordon  
Lawton, David  
Thomas, John

Clark, Charles  
Nedeau, Stephen  
Wendelboe, Fran

Fitzgerald, James  
Pilliod, James  
Whalley, Michael

### CARROLL

Babson, David Jr  
Kenney, Bettie  
Philbrick, Donald

Brown, Carolyn  
Morrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Mock, Henry

Hatch, Paul  
Patten, Betsey

### CHESHIRE

Dexter, Judson  
Royce, H Charles

Fish, Douglas  
Smith, Edwin

Hunt, John

Laurent, John

### COOS

Brady, Mark

Woodward, David

### GRAFTON

Alger, John  
Eaton, Stephanie  
Ingretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert

### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter

Allan, Nelson  
Balboni, Michael  
Beaton, William

Allen, Timothy  
Balcom, John  
Bergeron, Jean-Guy

Arnold, Thomas Jr  
Barry, J Gail  
Brundige, Robert

Bruno, Pierre  
 Chabot, Robert  
 Drisko, Richard  
 Fletcher, Richard  
 Goyette, Peter Jr  
 Hall, Charles  
 Hinkle, Peyton  
 Kurk, Neal  
 McHugh, Claire  
 Mooney, Maureen  
 Pepino, Leo  
 Slocum, Lee  
 Tahir, Saghir  
 Wheeler, Robert

Buhlman, David  
 Christiansen, Lars  
 Elliott, Larry  
 Gargas, Carolyn  
 Graham, John  
 Hansen, Ryan  
 Hopper, Gary  
 LaFlamme, Paul  
 McRae, Karen  
 Moran, Edward  
 Price, Pamela  
 Souza, Kathleen  
 Tate, Joan

Carter, Jeffrey  
 Coughlin, Pamela  
 Emerton, Larry  
 Gibson, John  
 Greenberg, Gary  
 Harrington, Paul  
 Jasper, Shawn  
 Luebckert, Bernard  
 Mercer, Robert  
 Mosher, William  
 Reeves, Sandra  
 Spiess, Paul  
 Vaillancourt, Steve

Cernota, Albert  
 Dionne, Kimberley  
 Fields, Dennis  
 Gonzalez, Carlos  
 Hagan, Barbara  
 Hawkins, Ken  
 Johnson, Lionel  
 McElroy, Henry Jr  
 Messier, Irene  
 Ober, Russell III  
 Rowe, Robert  
 Stepanek, Stephen  
 Wheeler, James

### MERRIMACK

Anderson, Eric  
 Field, William  
 Kennedy, Richard  
 Lockwood, Priscilla  
 McCormick, Tom  
 Reed, Dennis

Bouchard, Candace  
 Foley, Albert  
 L'Heureux, Stephen  
 MacKay, James  
 Nutter, Edward  
 Soltani, Tony

Currier, David  
 Fraser, Leo Jr  
 Langer, Ray  
 Marple, Richard  
 Oliver, James

Daniels, Eric  
 Hess, David  
 Leber, William  
 Maxfield, Roy  
 Reardon, Tara

### ROCKINGHAM

Allen, Mary  
 Cady, Harriet  
 Dalrymple, Janeen  
 Fesh, Bob  
 Griffin, Mary  
 Hughes, Daniel  
 Itse, Daniel  
 Katsakiores, Phyllis  
 Letourneau, Robert  
 McKinney, Betsy  
 Packard, Sherman  
 Smith, Donald  
 Waterhouse, Kevin  
 Weyler, Kenneth

Belanger, Ronald  
 Camm, Kevin  
 Dodge, Robert  
 Flanders, John Sr  
 Hamel, Albert  
 Hutchinson, Karen  
 Johnson, Robert  
 Kelley, Jane  
 Major, Norman  
 McMahon, Charles  
 Putnam, Ed II  
 Stone, Joseph  
 Weare, E Albert  
 Wiley, Robert

Bicknell, Elbert  
 Clark, Vivian  
 Duffy, James  
 Francoeur, Sheila  
 Headd, James  
 Ingram, Russell  
 Johnson, Rogers  
 Kobel, Rudolph  
 Manning, John  
 Moore, Benjamin  
 Quandt, Matthew  
 Tufts, J Arthur  
 Welch, David  
 Winchell, George

Bishop, Franklin  
 Corbin, Corey  
 Dumaine, Dudley  
 Gilbert, Karl  
 Holland, James Jr  
 Introne, Robert  
 Katsakiores, George  
 Langley, Jane  
 McCann, Richard  
 Morris, Richard  
 Rausch, James  
 Varrell, Thomas  
 Weldy, Norman Jr

### STRAFFORD

Bickford, David  
 Harrington, Michael  
 Scott, David

Cataldo, Sam  
 Knowles, William  
 Taylor, Kathleen

Dunlap, Patricia  
 Musler, George  
 Twombly, James

Easson, Timothy  
 Newton, Clifford  
 Woods, Phyllis

### SULLIVAN

Jones, Constance  
 and floor amendment (2571h) failed.

The question now being adoption of the motion Ought to Pass as Amended.

On a division vote, 244 members having voted in the affirmative and 100 in the negative, the motion was adopted.

Ordered to third reading.

**SB 74-FN-A-L**, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Thomas J. Gillick for the Majority of Municipal and County Government: In order to provide for records management and preservation, a plan presented by the town clerk needs to be voted

on by the local legislative body at an annual town meeting pursuant to RSA 31:95-c, II(c). The requirement to preserve these records is an obligation for the municipalities as set forth in RSA 41:58 and 41:59. The fund mechanism is to add a one-dollar fee onto the preparation fee already established in RSA 261:152, Motor Vehicles; Preparation of Documents. Half of the fee (\$.50) will be kept at the local level for the management and preservation of all town documents and the other half (\$.50) will be sent to the state to supplement the Local Government Records Management Improvement Fund established under RSA 5:48. The committee heard compelling testimony from state and local officials on the need for additional local funding sources to enable towns to preserve their records. Vote 11-4.

Rep. David L. Buhlman for the Minority of Municipal and County Government: The funding mechanism attached to this bill is an extra dollar on the vehicle registration fee. This is just another way for municipalities to extract more money from citizens. Since nearly everyone pays the vehicle registration fee, there is no escape from paying the additional dollar. With taxes as high as they are, there ought to be enough money in the municipal budgets for record preservation without having to take more money from drivers, who may or may not live in the municipality.

### Majority Amendment (2490h)

Amend the bill by replacing all after the enacting clause with the following:

1 Motor Vehicles; Preparation of Documents. Amend RSA 261:152 to read as follows:

261:152 Preparation of Documents.

**I.** Permits shall be in the form prescribed by the director and shall be issued with such duplicates as [he] *the director* shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter *or in an electronic format*. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$1 for each application. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.

**II.** *This paragraph shall apply only to towns that have adopted a records management and records preservation fund under RSA 31:95-c, II (c). Permits shall be in the form prescribed by the director and shall be issued with such duplicates as the director shall determine. The town clerk shall prepare forms for permits and applications for registration of vehicles as required by RSA 261:52. Said forms shall be prepared by typewriter or in an electronic format. Distribution of such documents shall be made as determined by the director. For preparation of the forms hereunder the town clerk shall receive a fee of \$2 for each application. Fifty cents of this amount shall be used to support records management and records preservation programs in local government adopted pursuant to RSA 31:95-c and RSA 31:95-d, and \$.50 shall be deposited in the local government records management improvement fund established under RSA 5:48. The fee shall be paid by the applicant for registration and shall be in addition to any other fees required hereunder. The term "town clerk" as used in this section shall include the person in a city who has been designated by the city government to issue such documents.*

2 New Subparagraph; Special Revenue Funds; Records Management and Records Preservation. Amend RSA 31:95-c, II by inserting after subparagraph (b) the following new subparagraph:

(c) Provide records management and records preservation plan from funds received by town clerk under RSA 261:152, II, provided that an up-to-date records management plan has been approved by the local legislative body at an annual meeting.

3 Effective Date. This act shall take effect 60 days after its passage.

On a division vote, 177 members having voted in the affirmative and 165 in the negative, the majority amendment was adopted.

Rep. Cady spoke against.

Rep. Buhlman requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 132 NAYS 209**

**YEAS 132  
BELKNAP**

**CARROLL**

Brown, Carolyn	Hatch, Paul	Patten, Betsey	Stevens, Stanley
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**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Richardson, Barbara	Robertson, Timothy	Royce, H Charles	Slack, Pamela
Webber, Amy	Weed, Charles		

**COOS**

Mears, Edgar	Poulin, Richard	Theberge, Robert	Woodward, David
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**GRAFTON**

Benn, Bernard	Bleyler, Ruth	Cooney, Mary	Densmore, Edward
Diamond, Estelle	Dudley, Terri	Eaton, Stephanie	Hammond, Lee
Naro, Debra	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter			

**HILLSBOROUGH**

Bergin, Peter	Buckley, Raymond	Carter, Mark	Clayton, William
Cote, David	Dokmo, Cynthia	Emerton, Larry	Ford, Nancy
Gargas, Carolyn	Graham, John	Haley, Robert	Hallyburton, Margaret
Jean, Claudette	Kopka, Angeline	Kurk, Neal	Malloy, Chris
Michon, Stephen	Palangas, Eric	Pappas, Christopher	Pepino, Leo
Pilotte, Maurice	Scanlon, Michael	Schulze, Joan	Shaw, Barbara
Spies, Paul	Sullivan, Francis	Sullivan, Peter	Vaillancourt, Steve

**MERRIMACK**

Bouchard, Candace	Brueggemann, Donald	Clarke, Claire	Currier, David
Davis, Frank	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hamm, Christine	Jacobson, Alf	Kenison, Leon	L'Heureux, Stephen
Lockwood, Priscilla	MacKay, James	Osborne, Jessie	Perkins, Randy
Potter, Frances	Reardon, Tara	Rush, Deanna	Wallner, Mary Jane

**ROCKINGHAM**

Blanchard, MaryAnn	Bridle, Russell	Casey, Kimberley	Clark, Vivian
Coes, Betsy	Gilbert, Jeffrey	Gillick, Thomas	Gould, Kenneth
Hughes, Daniel	Johnson, Robert	Langley, Jane	Major, Norman
McEachern, Paul	Moore, Benjamin	Norelli, Terie	Pitts, Jacqueline
Rausch, James	Shultis, Elizabeth	Splaine, James	Stone, Joseph
Tufts, J Arthur	Vallone, Matthew		

**STRAFFORD**

Brown, Julie	Callaghan, Frank	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Musler, George
Pelletier, Arthur	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Spang, Judith	Taylor, Kathleen	Wall, Janet	

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Franklin, Peter	Rodeschin, Beverly		

**NAYS 209****BELKNAP**

Ahern, Omer Jr	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Fitzgerald, James	Holbrook, Robert	Laflam, Robert	Lawton, David
Nedeau, Stephen	Pilliod, James	Rice, Thomas	Russell, David
Wendelboe, Fran	Whalley, Michael		

**CARROLL**

Babson, David Jr  
McConkey, Mark  
Philbrick, Donald

Derby, Mark  
Merrow, Harry

Dickinson, Howard  
Mock, Henry

Kenney, Bettie  
Olimpio, J Lisbeth

**CHESHIRE**

Dexter, Judson  
Liebl, George

Fish, Douglas  
Pratt, John

Hunt, John  
Smith, Edwin

Laurent, John  
Tilton, Anna

**COOS**

Brady, Mark  
Stohl, Eric

King, Frederick

Pratt, Leighton

Richardson, Herbert

**GRAFTON**

Akins, Ralph  
Dorsett, Andrew  
Ingretson, Paul

Alger, John  
Gilman, G Michael  
Maybeck, Margie

Almy, Susan  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Giuda, Robert  
Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Barry, J Gail  
Brundige, Robert  
Cemota, Albert  
Clemons, Jane  
Dionne, Kimberley  
Fletcher, Richard  
Goyette, Peter Jr  
Harrington, Paul  
Hopper, Gary  
Johnson, Lionel  
Lefebvre, Roland  
McHugh, Claire  
Moran, Edward  
Ober, Russell III  
Slocum, Lee  
Tate, Joan

Allan, Nelson  
Balboni, Michael  
Batula, Peter  
Bruno, Pierre  
Chabot, Robert  
Cote, Peter  
Drisko, Richard  
Gibson, John  
Hagan, Barbara  
Hawkins, Ken  
Infantine, William  
LaFlamme, Paul  
Luebker, Bernard  
McRae, Karen  
Mosher, William  
Price, Pamela  
Souza, Kathleen  
Wheeler, James

Allen, Timothy  
Balcom, John  
Beaton, William  
Buhlman, David  
Christensen, D L Chris  
Coughlin, Pamela  
Elliott, Larry  
Gonzalez, Carlos  
Hall, Charles  
Hinkle, Peyton  
Irwin, Anne-Marie  
Lasky, Bette  
Martin, Mary Ellen  
Mercer, Robert  
Movsesian, Lori  
Reeves, Sandra  
Stepanek, Stephen  
Wheeler, Robert

Arnold, Thomas Jr  
Baroody, Benjamin  
Bergeron, Jean-Guy  
Carter, Jeffrey  
Christiansen, Lars  
Craig, James  
Fields, Dennis  
Gorman, Mary  
Hansen, Ryan  
Holden, Randolph  
Jasper, Shawn  
Leach, Edward  
McElroy, Henry Jr  
Mooney, Maureen  
O'Brien, Lori  
Rowe, Robert  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
DeStefano, Stephen  
Kennedy, Richard  
Maxfield, Roy  
Reed, Dennis

Blanchard, Elizabeth  
Field, William  
Langer, Ray  
McCormick, Tom  
Seldin, Gloria

Daniels, Eric  
Foley, Albert  
Leber, William  
Nutter, Edward  
Soltani, Tony

DeJoie, John  
Hess, David  
Marple, Richard  
Oliver, James

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
Corbin, Corey  
Dumaine, Dudley  
Gilbert, Karl  
Headd, James  
Introne, Robert  
Katsakiores, Phyllis  
Manning, John  
Morris, Richard  
Robertson, Carl  
Waterhouse, Kevin  
Weyler, Kenneth

Belanger, Ronald  
Camm, Kevin  
DiFruscia, Anthony  
Fesh, Bob  
Gleason, John  
Holland, James Jr  
Itse, Daniel  
Kelley, Jane  
McCann, Richard  
Packard, Sherman  
Roessner, Kurt  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Carson, Sharon  
Dodge, Robert  
Flanders, John Sr  
Griffin, Mary  
Hutchinson, Karen  
Johnson, Rogers  
Kobel, Rudolph  
McKinney, Betsy  
Putnam, Ed II  
Smith, Donald  
Welch, David  
Winchell, George

Bishop, Franklin  
Cooney, Richard  
Duffy, James  
Francoeur, Sheila  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert  
McMahon, Charles  
Quandt, Matthew  
Varrell, Thomas  
Weldy, Norman Jr

**STRAFFORD**

Bemis, Alan  
Cataldo, Sam  
Newton, Clifford  
Woods, Phyllis

Berube, Roger  
Easson, Timothy  
Rous, Emma

Bickford, David  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Heon, Richard  
Twombly, James

**SULLIVAN**

Ferland, Brenda  
Jones, Constance

Flint, Gordon Sr  
Leone, Richard

Harris, Joseph  
Phinizy, James

Harris, Sandra

and the majority committee report failed.

Rep. Buhlman moved Inexpedient to Legislate.

Adopted.

**SB 95-FN-L**, relative to the development of workforce housing within municipalities. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert W. Brundige for the Majority of Municipal and County Government: The committee amendment to SB 95 expands the definition of "inclusionary zoning" in RSA 674:21, IV(a) to include workforce housing which allows the municipalities to adopt this zoning at the local level. This amendment clearly establishes "workforce housing" to be "housing that is affordable to a household with the income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published in the US Department of Housing and Urban Development in the Federal Register". The regional planning commissions may compile a regional housing needs assessment that would include housing for persons and families of all levels of income. Also, the Office of State Planning and Energy will assist municipalities by developing, in conjunction with the New Hampshire Housing Finance Authority, a recommended uniform methodology for the development of regional housing needs assessment and provide guidelines for the development of municipal master plans that promote workforce housing. A three-year priority for financial grants to regional planning commissions granted by the Office of State Planning and Energy was also established. Vote 9-6. Rep. Mary R. Cooney for the Minority of Municipal and County Government: The amendment replacing SB 95 removes all the definitions of workforce housing and removes the expedited court process for court cases involving denial of developers' approvals by local planning boards. This bill was the result of a study committee. The court case Britton vs. the Town of Chester established that a municipality cannot zone out what is now termed workforce (or affordable) housing. The goal of SB 95 was to codify the case law. There are no definitions in law for what is "workforce" or "affordable". The original bill established those parameters. Planning boards have expressed a need for guidelines so they will know if they are complying with the no exclusionary zoning statute and court decision. As is now and with the current amendment, the courts will have to decide case by case whether or not a municipality is in compliance. An important piece of the original bill was an expedited court process. One of the problems has been that local boards hold up a developer's plan for so long in the planning process, and the courts are so slow to hear a case, that the developer cannot afford to proceed. It is a tactic used to discourage development. The lack of codification will result in more lawsuits and various judicial interpretations of the law as it exists. When one town illegally restricts development, it pushes the needed development to neighboring towns. The original amended SB 95 set guidelines the courts need to be able to decide court cases quickly. The way it is now, the court must decide each individual case, thereby further defining the parameters only by case law. The original SB 95 does not mandate any zoning changes on municipalities, it simply defines what constitutes compliance with current law. It allows municipalities to exercise local judgement concerning development.

**Majority Amendment (2491h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to workforce housing within municipalities.

Amend the bill by replacing all after the enacting clause with the following:

1 Innovative Land Use Controls; Inclusionary Zoning; Workforce Housing. Amend RSA 674:21, IV(a) to read as follows:



(a) "Inclusionary zoning" means land use control regulations which provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income, *or which require that workforce housing units be included in any housing development that contains more than a specified number of total dwelling units*. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

2 New Subparagraph; Workforce Housing Defined. Amend RSA 674:21, IV by inserting after subparagraph (b) the following new subparagraph:

(c) "Workforce housing" means housing which is affordable to a household with income of 80 percent or less of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(1), each regional planning commission may compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, as defined in RSA 674:21, IV(c), which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

4 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph:

V. Assist municipalities by:

(a) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment under RSA 36:47, II.

(b) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

5 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, 1, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities for the development of workforce housing.

6 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill authorizes municipal land use ordinances to be used for the creation of workforce housing. This bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.

Rep. Patten spoke against.

Majority amendment failed.

Rep. Patten offered a floor amendment (0106h).

### Floor Amendment (0106h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to workforce housing within municipalities.

Amend the bill by replacing all after the enacting clause with the following:

1 Findings and Statement of Purpose.

I. The state of New Hampshire is experiencing an acute shortage of housing that is affordable to a large number of working households.

II. The acute shortage of housing affordable to working households poses a grave threat to the state's continued economic growth. It presents a serious barrier to the expansion of the state's labor force, undermines state efforts to foster a productive and self-reliant workforce, and adversely impacts the ability of many communities to host new businesses.

III. Achieving a balanced supply of housing, which requires increasing the supply of workforce housing, serves a statewide public interest, and constitutes an urgent and compelling public policy goal.

IV. The purpose of this act is to clarify the requirements established in *Britton v. Chester* (134 N.H. 439 (1991)) and provide additional guidance regarding compliance with those requirements to local officials and the public.

V. This act is intended to provide the maximum feasible flexibility to municipalities in exercising the zoning powers delegated to them by RSA 674 consistent with their obligation to provide reasonable opportunities for the development of workforce housing, and is not intended to create a system of statewide land use regulation or a statewide zoning process.

2 New Subdivision; Municipal Workforce Housing. Amend RSA 674 by inserting after section 54 the following new subdivision:

#### Municipal Workforce Housing

##### 674:55 Municipal Workforce Housing Opportunity.

I. Consistent with RSA 672:1, III-e, in every municipality that exercises the power to adopt land use ordinances and regulations pursuant to authority granted in RSA 674, such ordinances and regulations shall not prohibit or discourage the reasonable and realistic opportunities for the siting of workforce housing, including multifamily workforce housing. In order to provide such realistic opportunities, lot size and overall density requirements for workforce housing shall be reasonable. Municipalities shall not use unreasonable requirements for inclusionary zoning to prevent the development of projects that include workforce housing supported by higher income housing.

#### II. Definitions. In this section:

(a) "Multi-family housing" means a building or structure containing 6 or more dwelling units, each designed for occupancy by an individual household.

(b) "Reasonable and realistic opportunities for the development of workforce housing" means opportunities to develop economically viable workforce housing within the framework of the municipality's ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e. The collective impact of all such ordinances and regulations on a proposal for the development of workforce housing shall be considered in determining whether opportunities for the development of workforce housing are reasonable and realistic.

(c) "Workforce housing" means housing which is affordable to a household with income of no more than 80 percent of the median income of the metropolitan area or county in which the housing is located, adjusted for the number of persons in the household, as published annually by the U. S. Department of Housing and Urban Development in the Federal Register. Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than 2 bedrooms, shall not constitute workforce housing for the purposes of this chapter.

3 Regional Planning Commissions; General Powers and Duties. RSA 36:47, II is repealed and reenacted to read as follows:

II. For the purpose of assisting municipalities in complying with RSA 674:2, III(l), each regional planning commission shall compile a regional housing needs assessment, which shall include an assessment of the regional need for housing for persons and families of all levels of income. The regional housing needs assessment shall be updated every 5 years and made available to all municipalities in the planning region. The regional housing needs assessment shall include an assessment of the regional need for workforce housing, pursuant to RSA 674:55, which shall be developed in accordance with a methodology developed by the office of state planning and energy programs in consultation with the New Hampshire housing finance authority.

II-a. Subject to available state funding, each regional planning commission shall review the local land use regulations of any municipality in its region within 6 months of receiving a written request from the planning board, selectmen, or city council and make suggestions concerning the exclusionary effects of the ordinances and the ordinances' compliance with the municipality's obligation under RSA 674:55. As part of such review the regional planning commission shall make recommendations concerning ways in which the ordinances could be changed to bring the municipality into compliance.

4 Innovative Land Use Controls; Inclusionary Zoning; Workforce Units Required. Amend RSA 674:21, IV(a) to read as follows:

(a) "Inclusionary zoning" means land use control ~~[regulations which]~~ *ordinances that* provide a voluntary incentive or benefit to a property owner in order to induce the property owner to

produce housing units which are affordable to persons or families of low and moderate income, *or which require that workforce housing units as provided in RSA 674:55 be included in any housing development that contains more than a specified number of total dwelling units; provide, however, that such requirements shall not mandate that more than 20 percent of the units in any such housing development be workforce housing.* Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.

5 New Paragraph; Office of State Planning and Energy Programs; Responsibilities for Assistance; Workforce Housing. Amend RSA 4-C:8 by inserting after paragraph IV the following new paragraph.

V. Assist municipalities by:

(a) Making available, upon request from a municipality, data produced or collected by state, local, or federal government agencies in determining its need for workforce housing.

(b) Developing, in conjunction with the New Hampshire housing finance authority, a recommended uniform methodology for the development of the regional housing needs assessment required by RSA 36:47, II.

(c) Providing guidelines for the development of municipal master plans that promote the development of workforce housing.

6 Allocation of Financial Grants. For 3 years, beginning July 1, 2004, priority for financial grants to regional planning commissions made pursuant to RSA 4-C:8, I, shall be given to grant requests which are for the purpose of enhancing a regional planning commission's ability to provide technical assistance to municipalities in meeting their legal obligations to provide realistic and reasonable opportunities for the development of workforce housing.

7 Office of State Planning and Energy Programs; Study of Impacts of Types of Development.

I. Subject to the availability of funding, the office of state planning and energy programs shall study the following issues:

(a) The relationship between various types of development (e.g., residential, commercial, and industrial) and demands for municipal services and the added costs thereof;

(b) The relationship between affordable housing development and population changes within and among municipalities;

(c) Consumer preferences for housing types, including smart growth/low impact development alternatives;

(d) Identification of ordinances, regulations, and practices used by municipalities that have the effect of excluding the development of workforce and affordable housing;

(e) Identification of model local land use ordinances and regulations that could be used by municipalities to provide reasonable and realistic opportunities for the development of workforce housing; and

(f) Identification of strategies that can be used to address negative perceptions of the impact of workforce and affordable housing upon communities.

II. The office of state planning and energy programs shall report its findings to the general court on or before June 1, 2005.

8 Effective Date.

I. RSA 674:55, II as inserted by section 2 of this act shall take effect June 1, 2006.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill provides for municipal land use ordinances to provide for the creation of workforce housing. The bill also requires the office of state planning and energy programs and regional planning commissions to provide certain technical assistance.

Rep. Hughes spoke against.

Rep. Patten spoke in favor and yielded to questions.

Floor amendment (0106h) failed.

The question now being Ought to Pass.

Motion failed.

Rep. Newton moved Inexpedient to Legislate.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of Inexpedient to Legislate.

**YEAS 201 NAYS 135****YEAS 201****BELKNAP**

Ahern, Omer Jr  
Fitzgerald, James  
Lawton, David  
Russell, David

Bartlett, Gordon  
Flanders, Donald  
Nedeau, Stephen  
Thomas, John

Boyce, Laurie  
Holbrook, Robert  
Pilliod, James  
Wendelboe, Fran

Clark, Charles  
Lafam, Robert  
Rice, Thomas  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Kenney, Bettie  
Philbrick, Donald

Brown, Carolyn  
Morrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Mock, Henry

Hatch, Paul  
Olimpio, J Lisbeth

**CHESHIRE**

Dexter, Judson  
Liebl, George

Fish, Douglas  
Pratt, John

Hunt, John  
Royce, H Charles

Laurent, John  
Smith, Edwin

**COOS**

Brady, Mark  
Stohl, Eric

King, Frederick  
Woodward, David

Pratt, Leighton

Richardson, Herbert

**GRAFTON**

Alger, John  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Giuda, Robert  
Williams, Burton

Dorsett, Andrew  
Ingbreton, Paul

Gilman, G Michael  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Bergeron, Jean-Guy  
Buhlman, David  
Chabot, Robert  
Dionne, Kimberley  
Emerton, Larry  
Gibson, John  
Hagan, Barbara  
Hawkins, Ken  
Kurk, Neal  
McElroy, Henry Jr  
Mosher, William  
Pepino, Leo  
Scanlon, Michael  
Tahir, Saghir  
Wheeler, Robert

Allen, Timothy  
Balcom, John  
Bergin, Peter  
Carter, Jeffrey  
Christensen, D L Chris  
Dokmo, Cynthia  
Fields, Dennis  
Gonzalez, Carlos  
Hall, Charles  
Hopper, Gary  
Leach, Edward  
McHugh, Claire  
Movsesian, Lori  
Price, Pamela  
Slocum, Lee  
Tate, Joan

Arnold, Thomas Jr  
Barry, J Gail  
Brundige, Robert  
Carter, Mark  
Christiansen, Lars  
Drisko, Richard  
Fletcher, Richard  
Goyette, Peter Jr  
Hansen, Ryan  
Jasper, Shawn  
Luebckert, Bernard  
McRae, Karen  
O'Brien, Lori  
Reeves, Sandra  
Souza, Kathleen  
Vaillancourt, Steve

Artz, Lawrence  
Batula, Peter  
Bruno, Pierre  
Cernota, Albert  
Coughlin, Pamela  
Elliott, Larry  
Ford, Nancy  
Graham, John  
Harrington, Paul  
Johnson, Lionel  
Martin, Mary Ellen  
Moran, Edward  
Ober, Russell III  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, James

**MERRIMACK**

Anderson, Eric  
Fraser, Leo Jr  
L'Heureux, Stephen  
Marple, Richard  
Reed, Dennis

Currier, David  
Hess, David  
Langer, Ray  
Maxfield, Roy  
Soltani, Tony

Field, William  
Jacobson, Alf  
Leber, William  
Nutter, Edward

Foley, Albert  
Kennedy, Richard  
Lockwood, Priscilla  
Oliver, James

**ROCKINGHAM**

Allen, Mary  
Carson, Sharon  
Duffy, James

Belanger, Ronald  
Clark, Vivian  
Fesh, Bob

Bicknell, Elbert  
DiFruscia, Anthony  
Flanders, John Sr

Bridle, Russell  
Dodge, Robert  
Francoeur, Sheila

Gilbert, Karl  
Hamel, Albert  
Hutchinson, Karen  
Johnson, Robert  
Kelley, Jane  
Major, Norman  
McMahon, Charles  
Quandt, Matthew  
Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

Gillick, Thomas  
Headd, James  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Manning, John  
Moore, Benjamin  
Rausch, James  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

Gould, Kenneth  
Holland, James Jr  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
McCann, Richard  
Packard, Sherman  
Robertson, Carl  
Vallone, Matthew  
Welch, David

Griffin, Mary  
Hughes, Daniel  
Itse, Daniel  
Katsakiores, Phyllis  
Letourneau, Robert  
McKinney, Betsy  
Putnam, Ed II  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr

### STRAFFORD

Bemis, Alan  
Easson, Timothy  
Twombly, James

Bickford, David  
Harrington, Michael  
Woods, Phyllis

Callaghan, Frank  
Newton, Clifford

Cataldo, Sam  
Scott, David

### SULLIVAN

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

### NAYS 135

### BELKNAP

None

### CARROLL

Derby, Mark

McConkey, Mark

Patten, Betsey

### CHESHIRE

Allen, Peter  
Meader, David  
Richardson, Barbara  
Webber, Amy

Dunn, James  
Mitchell, McKim  
Robertson, Timothy  
Weed, Charles

Eaton, Daniel  
Parkhurst, Henry  
Slack, Pamela

Espiefs, Peter  
Pratt, Irene  
Tilton, Anna

### COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

### GRAFTON

Akins, Ralph  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Almy, Susan  
Densmore, Edward  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

Bleyler, Ruth  
Dudley, Terri  
Scovner, Nancy

### HILLSBOROUGH

Allan, Nelson  
Clemons, Jane  
Gargas, Carolyn  
Hinkle, Peyton  
Kopka, Angeline  
Malloy, Chris  
Palangas, Eric  
Shaw, Barbara

Baroody, Benjamin  
Cote, David  
Gorman, Mary  
Infantine, William  
LaFlamme, Paul  
Mercer, Robert  
Pappas, Christopher  
Spiess, Paul

Beaton, William  
Cote, Peter  
Haley, Robert  
Irwin, Anne-Marie  
Lasky, Bette  
Michon, Stephen  
Pilotte, Maurice  
Sullivan, Francis

Buckley, Raymond  
Craig, James  
Hallyburton, Margaret  
Jean, Claudette  
Lefebvre, Roland  
Mooney, Maureen  
Schulze, Joan  
Sullivan, Peter

### MERRIMACK

Blanchard, Elizabeth  
Daniels, Eric  
French, Barbara  
MacKay, James  
Potter, Frances  
Wallner, Mary Jane

Bouchard, Candace  
Davis, Frank  
Gile, Mary  
McCormick, Tom  
Reardon, Tara

Brueggemann, Donald  
DeJoie, John  
Hamm, Christine  
Osborne, Jessie  
Rush, Deanna

Clarke, Claire  
DeStefano, Stephen  
Kenison, Leon  
Perkins, Randy  
Seldin, Gloria

**ROCKINGHAM**

Bishop, Franklin	Blanchard, MaryAnn	Camm, Kevin	Casey, Kimberley
Coes, Betsy	Cooney, Richard	Corbin, Corey	Gilbert, Jeffrey
Gleason, John	McEachern, Paul	Morris, Richard	Norelli, Terie
Pitts, Jacqueline	Shultis, Elizabeth	Splaine, James	Tufts, J Arthur
Winchell, George			

**STRAFFORD**

Berube, Roger	Brown, Julie	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Musler, George	Pelletier, Arthur	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra
Phinizy, James			

and Inexpedient to Legislate was adopted.

**HB 143-FN**, relative to the registration fees and requirements for snow traveling vehicles. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David H. Russell for the Majority of Resources, Recreation and Development: The committee chose to retain this bill in order to give the new snowmobile laws a full calendar year to see how they work. The committee heard overwhelming testimony on the success of SB 315. Of 67,064 snowmobile registrations, 57,861 were members of a club, over 86%. The general consensus was that, in addition to the financial gain, the amount of volunteers also increased dramatically. Of particular interest was the case of the Pittsburg Ridge Runners, the largest club in the state. They were very skeptical of the bill initially, but since it has been in effect, the membership has increased over 400%. Also, they now have a full-time secretary, and for the first time in the club's history, they have not borrowed money in the fall for trail maintenance. For these reasons, the committee recommends we find HB 143 Inexpedient to Legislate. Vote 9-7.

Rep. Richard T. Cooney for the Minority of Resources, Recreation and Development: This bill would remove the \$30 differential snowmobile fee levied on registrants who are not members of a snowmobile club. The bill also adds \$10 to each registration fee to get needed money in the hands of clubs which do trail maintenance. The minority feels that the Legislature should not be forcing snowmobile owners to pay an extra \$30 to join a club. The minority also recognizes the clubs' need for more money to maintain the trails and feels a \$10 fee increase across the board should be sufficient for the short term. Snowmobile clubs should recruit members the old fashioned way – they should earn new members.

Majority committee report adopted.

**HB 516-L**, relative to the standard of review for requests for excavating and dredging permits. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kevin L. Camm for the Majority of Resources, Recreation and Development: This bill removes the Wetlands Bureau at the Department of Environmental Services from the tasks of substantiating bridge and highway designs such as public need, traffic counts, and traffic projections. The Department testified they do not have the expertise for bridge and highway design and they are in favor of the amendment. No environmental aspect of review regarding soils, wetlands, habitat, etc. is affected. The second part of this amendment confirms the need to dredge the Seabrook Harbor in the timeframe necessary, by the end of March 2004. The money is already appropriated in the capital budget. The Department testified in favor of this part of the amendment, as well. Vote 14-2.

Rep. Donald Brueggemann for the Minority of Resources, Recreation and Development: As written, this bill significantly circumscribes the ability of local communities to question many aspects of projects brought by the Department of Transportation. By limiting the scope of appeal on De-

partment of Transportation projects, these local concerns may not be given the weight they deserve, thereby limiting the breadth of vision and experience that is brought to a particular project. In the end, better project designs will result by including more and varied voices which this bill seeks to silence.

### Majority Amendment (2508h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

1-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, the department of environmental services shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. *On appeal of requests proposed, sponsored, or administered by the department of transportation, the council shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.* All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. *On appeal of requests proposed, sponsored, or administered by the department of transportation, the court shall presume a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.* The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion	\$18,300,000
Total state appropriation section 5	\$18,300,000

(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the

biennium beginning July 1, 2003, the sum of [~~\$1,000,000~~] **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor [~~provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects~~] **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.**)

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2005.

### AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth.

Rep. Moore spoke in favor.

Majority amendment adopted.

Rep. Soltani offered a floor amendment (0033h).

### Floor Amendment (0033h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Excavating and Dredging Permit; Certain Exemptions. Amend RSA 482-A:3 by inserting after paragraph I the following new paragraph:

I-a. In reviewing requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.

2 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, V to read as follows:

V. The council on appeal shall hold a non-evidentiary hearing as provided in its rules. The hearing shall be noticed in accordance with RSA 482-A:8 and RSA 482-A:9. The department shall provide the council with its record of decision upon receiving notice of the hearing. The appeal shall be determined upon the record below. The burden of proof shall be on the party seeking to set aside the department's decision to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** All findings of the department upon all questions of fact properly before it shall be prima facie lawful and reasonable.

3 Excavating and Dredging Permits; Appeals. Amend RSA 482-A:10, XI to read as follows:

XI. On appeal to the superior court, the burden of proof shall be upon the party seeking to set aside the decision of the council to show that the decision is unlawful or unreasonable. ***On appeal of requests proposed, sponsored, or administered by the department of transportation, there shall be a rebuttable presumption that there is a public need for the requested project, and that the department of transportation has exercised appropriate engineering judgment in the project's design.*** The council's decision shall not be set aside or vacated, except for errors of law, unless the court is persuaded, by a preponderance of the evidence before it, that said decision is unjust or unreasonable.

4 Appropriation; Port Authority. Amend 1991, 351:5, as amended by 1992, 260:20, 1994, 204:1, 2000, 15:1, 2000, 292:10, and 2003, 240:27 to read as follows:

351:5 Appropriation; Port Authority. The expansion of the Port of Portsmouth funded in this section shall include an 11-acre expansion of the north yard of the port, the construction of a 750-foot pier, dredging projects including associated mitigation to maintain channels and harbor, a hydrodynamic study of Hampton and Seabrook, renovation of any commercial fish piers that may be transferred to the port authority, and the rip-rap project on River Street in Seabrook. The sums hereinafter detailed are hereby appropriated for the project specified:

A. Port of Portsmouth Expansion	\$18,300,000
Total state appropriation section 5	\$18,300,000



(The funds appropriated in subparagraph A for the Port of Portsmouth expansion shall not be expended, encumbered, or obligated in any way unless an action plan, which shall include construction documents, prepared by the New Hampshire Port Authority shall be approved by the capital budget overview committee, the fiscal committee, and the governor and council. \$1,500,000 of the total amount appropriated herein is hereby released for the purpose of final design and bid documents. \$1,800,000 of the total amount appropriated is designated for wetland mitigation. \$400,000 of the total amount appropriated is designated for the Hampton-Seabrook hydrodynamic study. The remaining \$14,600,000 is designated for construction, renovation, and dredging projects including associated mitigation. This appropriation shall be nonlapsing until the project is completed. The New Hampshire Port Authority shall not encumber, obligate, or expend any funds from this appropriation for renovation or dredging projects without the prior approval of the capital budget overview committee. The total amount that may be expended for renovation and dredging projects including associated mitigation shall not exceed a total of \$1,000,000. In addition, for the biennium beginning July 1, 2003, the sum of [~~\$1,000,000~~] **\$200,000** shall be expended for the dredging of Hampton - Seabrook harbor[~~provided that the Army Corps of Engineers takes responsibility for completion and funding of future harbor dredging projects~~] **prior to March 15, 2004, and the sum of \$800,000 shall be expended prior to the end of the biennium ending June 30, 2005.**)

5 Effective Date.

I. Section 4 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2005.

### AMENDED ANALYSIS

This bill changes the standard of review for requests for excavating and dredging permits.

This bill also extends the period in which funds shall be expended for the Port of Portsmouth. Rep. Soltani spoke in favor and yielded to questions.

Rep. Royce spoke in favor.

Floor amendment (0033h) adopted.

Majority committee report adopted and ordered to third reading

**SB 19-FN**, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard T. Cooney for the Majority of Resources, Recreation and Development: This bill, as introduced in the Senate, would put in statute the provisions of Governor Shaheen's Executive Order 2002-Y, dated May 15, 2002. This order requires the Department of Environmental Services to notify owners of property with wells within 500 feet of a well which is found to be contaminated. Radon and arsenic are naturally occurring contaminants and not covered by this process. This notification is intended to warn well owners of potential contamination and to suggest that their wells be tested. This process is intended to protect public health. The amendment improves on this process by shortening the time delay in the notification and by requiring notification of remediation when it occurs. The Senate added a provision to require a report on a Department of Environmental Services plan to opt out of the MtBE program. The committee amendment clarifies this requirement by referring to RSA 485:16-b, which requires the Department to have a plan in place by January 1, 2004 to opt out of the MtBE program. Vote 9-7.

Rep. Pierre W. Bruno for the Minority of Resources, Recreation and Development: This bill creates legislation that codifies an Executive Order of former Governor Shaheen. The minority of the committee feels that SB 19, though well intentioned, does not serve the public good. The language requires that notification of groundwater contamination be made to all property owners within 500 feet of the contaminated well, regardless of the actual distance to their wells, and regardless of the position of those wells with respect to the actual presence of contamination. Such notification tends to incite concerns that may not be grounded in scientific reality and will unnecessarily place a stigma on many unaffected properties. Such stigma does little to protect public health, while undermining the property values of adjoining properties even if they are not contaminated. Department of Environmental Services (DES) rules that have existed since prior to the Executive Order require that owners of contaminated groundwater identify and remediate the source of contamination, as well as require the testing of water supply wells that are potential receptors of that contamination. SB 19 would even require notification to well owners that are up hydraulic gradient ("uphill") of

a groundwater contamination source. DES issues "no further action at this time" when the standards are met. The caveat of "at this time" means that those property owners who were unnecessarily notified will always have an unnecessary stigma attached to their property. Since DES is complying with the Executive Order, there is no need to codify something that will cost \$63,500 in FY 2004 and increase by 3% annually in FY 2005 and each year thereafter.

#### **Majority Amendment (2426h)**

Amend RSA 485-C:14-b, II as inserted by section 1 of the bill by replacing it with the following:

II. Notification shall be made in writing within 45 days after the department receives analytical data indicating the presence of the contamination. Each property owner or public water supplier shall be notified at least once upon the discovery of contamination in an area. The commissioner shall provide the notification and shall provide additional notification as the extent of contamination at a site is further determined and remediation occurs.

Amend the bill by replacing section 2 with the following:

2 Department of Environmental Services Report; MTBE. The commissioner of the department of environmental services shall report to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library by July 1, 2004 relative to the status of department's plan to opt out of the MTBE additive to gasoline program by January 1, 2004, pursuant to RSA 485:16-b.

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

Majority amendment adopted.

Majority committee report adopted and ordered to third reading.

#### **HB 366, relative to mercury reduction. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Roy D. Maxfield for the Majority of Science, Technology and Energy: This bill establishes certain restrictions on the sale, distribution and use of mercury added products for which non-mercury alternatives exist. The majority of the Science, Technology and Energy Committee agrees that these actions will reduce incidental exposure to mercury, reduce mercury in the solid waste stream, and facilitate the recycling of mercury-containing products. Several states in the northeast region are taking similar action to ban specific products containing mercury and we are concerned that these products could be promoted in states that do not take action. Approximately 20% of the mercury deposited in the northeast originates from sources within the region. The committee held nine public hearings on this bill and concluded that this amended version will continue our commitment during the past several years for emissions reductions. The committee rejected an outright disposal ban proposed by the bill sponsor because of 28-a issues associated with monitoring, collection and disposal. Vote 10-1.

Rep. Lee G. Slocum for the Minority of Science, Technology and Energy: This bill bans the most commonly used thermostat, the round Honeywell thermostat, that is known for stability and efficiency. Inexpensive substitutes result in temperature fluctuations, which tend to cause the user to raise the temperature setting. The net effect is that more energy is consumed which generates more pollution, which increases the mercury in New Hampshire lakes and streams. This bill also bans switches used in gas ranges which have no electrical supply and bans certain pressure-sensitive switches which, according to industry spokesmen, have no substitute and involve significant safety issues. Finally, the bill bans several types of medical equipment which are, by law, already disposed of properly by medical providers and are, in some cases, the most reliable. While we can all agree that we need to reduce mercury in New Hampshire waters, this is clearly not the way to go about it.

#### **Majority Amendment (2480h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

- (1) The larger product is used in manufacturing; or

(2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

(a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(b) One of the following applies:

(1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or

(2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and], use [it appropriately so that no person is exposed to the mercury], and otherwise handle and dispose of it in accordance with state and federal law;~~ and

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products. Rep. Thomas spoke in favor.  
Majority amendment adopted.  
Rep. Phinizy offered a floor amendment (2551h).

#### Floor Amendment (2551h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to mercury reduction and the disposal of mercury-added products.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Definitions. Amend RSA 149-M:51 by inserting after paragraph IV the following new paragraphs:

IV-a. "Mercury relay" means a mercury-added product or device that opens or closes electrical contacts to effect the operation of other devices in the same or another electrical circuit, including mercury displacement relays, mercury wetted reed relays and mercury contact relays.

IV-b. "Mercury switch" means a mercury-added product or device that opens or closes an electrical circuit or gas valve, including mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature and mercury flame sensors. "Mercury switch" does not include a mercury-added thermostat.

IV-c. "Mercury thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating or air-conditioning equipment.

2 New Paragraphs; Mercury-Added Products; Restrictions. Amend RSA 149-M:53 by inserting after paragraph III the following new paragraphs:

IV.(a) Beginning July 1, 2006, no person shall sell or distribute the following mercury-added products:

- (1) Barometer;
- (2) Esophageal dilator, bougie tube or gastrointestinal tube;
- (3) Flow meter;
- (4) Hydrometer;
- (5) Hygrometer or psychrometer;
- (6) Manometer;
- (7) Pyrometer;
- (8) Sphygmomanometer; or
- (9) Thermometer, except as provided in paragraph II.

(b) This paragraph shall not apply if use of the product is required under federal law or federal contract specification or if the only mercury-added component in the product is a button cell battery.

V.(a) Beginning July 1, 2006, no person shall sell or distribute a mercury switch, mercury relay or mercury thermostat individually or as a product component. This prohibition does not apply if the switch, relay or thermostat is used to replace a switch, relay or thermostat that is a component in a larger product in use prior to July 1, 2006 and one of the following applies:

(1) The larger product is used in manufacturing; or

(2) The switch, relay, or thermostat is integrated and not physically separate from other components of the larger product.

(b) This paragraph does not apply to the sale of a mercury switch, relay, or thermostat if its use is required under federal law or federal contract specification. This paragraph does not apply to thermostats used to sense and control temperature as part of a manufacturing process, or used by blind or visually impaired persons.

VI. The manufacturer or user of a product or products covered by paragraphs IV and V may apply for an exemption by filing a written petition with the commissioner of environmental services. The commissioner may grant an exemption with or without conditions upon finding that:

(a) A system exists for the proper collection, transportation and processing of the product at the end of its life; and

(b) One of the following applies:

(1) Use of the product provides a net benefit to the environment, public health or public safety when compared to available non-mercury alternatives; or

(2) Technically feasible non-mercury alternatives are not available at comparable cost.

VII. Prior to approving an exemption, the commissioner shall consult with the member states of the interstate clearinghouse established under RSA 149-M:56. The commissioner shall be as consistent as possible with the member states in granting exemptions. Exemptions shall not exceed 5 years and may be renewed upon written application if the commissioner finds that the mercury-added product continues to meet the criteria of paragraphs VI and VII and the manufacturer or other persons comply with the conditions of its original approval.

3 Limitations on the Use of Mercury. Amend RSA 149-M:54, II to read as follows:

II. Understands that mercury is toxic and that the purchaser will store ~~[and], use [it appropriately so that no person is exposed to the mercury], and otherwise handle and dispose of it in accordance with state and federal law;~~ and

4 New Section; Disposal of Mercury-added Products. Amend RSA 149-M by inserting after section 57 the following new section:

149-M:58 Disposal Ban. Owners and operators of solid waste landfills, transfer stations, and incinerators may develop programs to sort, collect, and recycle or dispose of mercury-added products in accordance with applicable laws and regulations, and beginning January 1, 2006:

I. No person shall knowingly dispose of mercury-added products in solid waste landfills, transfer stations, or incinerators.

II. Except as otherwise provided by this section, every person who discards solid waste within the state shall separate mercury-added products from that solid waste for recycling or disposal as a hazardous waste. Any contractor who replaces or removes mercury-added products shall assure the proper separation and recycling or the disposal as a hazardous waste of any discarded mercury-added product.

III. After proper separation of mercury-added products, each person who discards that waste shall either:

(a) Set that waste in a designated area for collection by a hauler who shall deliver that waste to a facility that is legally authorized and permitted to accept that waste; or

(b) Deliver that waste to a facility that is legally authorized and permitted to accept that waste.

IV. Owners and operators of solid waste transfer, incineration, and landfill facilities shall not be found to have knowingly accepted or disposed of mercury-added products if, at a minimum, the facility has implemented all of the following mechanisms as required:

(a) Posting of signs at the facility providing notice of the prohibition against the disposal and incineration of mercury-added products.

(b) Written notification to, or agreements with, the facility's customers, providing notice of the prohibition against the disposal and incineration of mercury-added products.

(c) Implementation of a procedure, approved by the department, for periodically monitoring incoming wastes to detect the presence of mercury-added products at the facility and for separating out observed mercury-added products for return to the generator, recycling, or disposal as a hazardous waste.

(d) Provide customers with information about collection programs or facilities that are permitted to accept mercury-added products for recycling or disposal as a hazardous waste.

5 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes certain restrictions on the sale, distribution, and use of mercury-added products.

This bill also prohibits the disposal of mercury-added products after January 1, 2006.

Rep. Phinizy spoke in favor and yielded to questions.

Rep. Kennedy spoke in favor.

Rep. Thomas spoke against.

On a division vote, 139 members having voted in the affirmative and 181 in the negative, floor amendment (2551h) failed.

The question now being adoption of the majority committee report.

Reps. Wendelboe and Adams spoke against.

Rep. Slocum spoke against and yielded to questions.

Rep. Maxfield spoke in favor and yielded to questions.  
 Rep. Burling requested a roll call; sufficiently seconded.  
 The question being adoption of the majority committee report.

## YEAS 206 NAYS 114

### YEAS 206

#### BELKNAP

Fitzgerald, James	Laflam, Robert	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Whalley, Michael

#### CARROLL

Brown, Carolyn	Derby, Mark	Dickinson, Howard	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

#### CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Slack, Pamela	Smith, Edwin	Tilton, Anna	Webber, Amy
Weed, Charles			

#### COOS

Poulin, Richard	Richardson, Herbert	Stohl, Eric
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#### GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dudley, Terri
Hammond, Lee	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter			

#### HILLSBOROUGH

Allan, Nelson	Arnold, Thomas Jr	Baroody, Benjamin	Beaton, William
Bergin, Peter	Brundige, Robert	Buckley, Raymond	Carter, Jeffrey
Christensen, D L Chris	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Ford, Nancy
Gargas, Carolyn	Gonzalez, Carlos	Gorman, Mary	Graham, John
Hagan, Barbara	Hallyburton, Margaret	Infantine, William	Irwin, Anne-Marie
Jean, Claudette	Johnson, Lionel	Kopka, Angeline	Kurk, Neal
LaFlamme, Paul	Leach, Edward	Malloy, Chris	Martin, Mary Ellen
Michon, Stephen	Movsesian, Lori	Palangas, Eric	Pappas, Christopher
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Schulze, Joan
Shaw, Barbara	Spiess, Paul	Stepanek, Stephen	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia	Tahir, Saghir	Wheeler, Robert

#### MERRIMACK

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Daniels, Eric	Davis, Frank
DeJoie, John	DeStefano, Stephen	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Hess, David	Jacobson, Alf
Kenison, Leon	Kennedy, Richard	Leber, William	Lockwood, Priscilla
MacKay, James	Maxfield, Roy	Nutter, Edward	Osborne, Jessie
Perkins, Randy	Potter, Frances	Reardon, Tara	Rush, Deanna
Seldin, Gloria	Wallner, Mary Jane		

**ROCKINGHAM**

Belanger, Ronald  
 Carson, Sharon  
 Dodge, Robert  
 Gleason, John  
 Hughes, Daniel  
 Katsakiores, Phyllis  
 Manning, John  
 Packard, Sherman  
 Roessner, Kurt  
 Tufts, J Arthur  
 Winchell, George

Blanchard, MaryAnn  
 Casey, Kimberley  
 Flanders, John Sr  
 Gould, Kenneth  
 Introne, Robert  
 Kelley, Jane  
 McEachern, Paul  
 Pitts, Jacqueline  
 Shultis, Elizabeth  
 Vallone, Matthew

Bridle, Russell  
 Coes, Betsy  
 Gilbert, Jeffrey  
 Griffin, Mary  
 Johnson, Robert  
 Langley, Jane  
 McKinney, Betsy  
 Quandt, Matthew  
 Splaine, James  
 Weare, E Albert

Cady, Harriet  
 Corbin, Corey  
 Gillick, Thomas  
 Headd, James  
 Katsakiores, George  
 Letourneau, Robert  
 Norelli, Terie  
 Robertson, Carl  
 Stone, Joseph  
 Welch, David

**STRAFFORD**

Bemis, Alan  
 Dunlap, Patricia  
 Kaen, Naida  
 Pelletier, Arthur  
 Snyder, Clair

Berube, Roger  
 Heon, Richard  
 Keans, Sandra  
 Rous, Emma  
 Spang, Judith

Cataldo, Sam  
 Hofemann, Roland  
 Knowles, William  
 Schmidt, Peter  
 Wall, Janet

Creteau, Irene  
 Johnson, Nancy  
 Miller, Joseph  
 Smith, Marjorie

**SULLIVAN**

Allison, David  
 Ferland, Brenda  
 Harris, Sandra

Burling, Peter  
 Flint, Gordon Sr  
 Jones, Constance

Cloutier, John  
 Franklin, Peter  
 Leone, Richard

Donovan, Thomas  
 Harris, Joseph  
 Phinizy, James

**NAYS 114****BELKNAP**

Ahern, Omer Jr  
 Holbrook, Robert

Bartlett, Gordon  
 Lawton, David

Boyce, Laurie  
 Wendelboe, Fran

Clark, Charles

**CARROLL**

Babson, David Jr

Mock, Henry

**CHESHIRE**

Dexter, Judson  
 Liebl, George

Fish, Douglas

Hunt, John

Laurent, John

**COOS**

Brady, Mark

King, Frederick

Pratt, Leighton

**GRAFTON**

Alger, John  
 Gilman, G Michael  
 Maybeck, Margie

Barker, Robert  
 Gionet, Edmond  
 Naro, Debra

Dorsett, Andrew  
 Giuda, Robert  
 Sorg, Gregory

Eaton, Stephanie  
 Ingretson, Paul  
 Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis  
 Balcom, John  
 Buhlman, David  
 Elliott, Larry  
 Harrington, Paul  
 Luebker, Bernard  
 Mercer, Robert  
 O'Brien, Lori  
 Slocum, Lee  
 Wheeler, James

Allen, Timothy  
 Barry, J Gail  
 Carter, Mark  
 Gibson, John  
 Hawkins, Ken  
 McElroy, Henry Jr  
 Mooney, Maureen  
 Ober, Russell III  
 Souza, Kathleen

Artz, Lawrence  
 Bergeron, Jean-Guy  
 Cernota, Albert  
 Goyette, Peter Jr  
 Hopper, Gary  
 McHugh, Claire  
 Moran, Edward  
 Pepino, Leo  
 Tate, Joan

Balboni, Michael  
 Bruno, Pierre  
 Christiansen, Lars  
 Hall, Charles  
 Jasper, Shawn  
 McRae, Karen  
 Mosher, William  
 Scanlon, Michael  
 Vaillancourt, Steve

**MERRIMACK**

Field, William  
Marple, Richard  
Soltani, Tony

Foley, Albert  
McCormick, Tom

Fraser, Leo Jr  
Oliver, James

Langer, Ray  
Reed, Dennis

**ROCKINGHAM**

Allen, Mary  
Clark, Vivian  
Gilbert, Karl  
Ingram, Russell  
Major, Norman  
Putnam, Ed II  
Waterhouse, Kevin

Bicknell, Elbert  
DiFruscia, Anthony  
Hamel, Albert  
Itse, Daniel  
McCann, Richard  
Rausch, James  
Weldy, Norman Jr

Bishop, Franklin  
Fesh, Bob  
Holland, James Jr  
Johnson, Rogers  
McMahon, Charles  
Smith, Donald  
Weyler, Kenneth

Camm, Kevin  
Francoeur, Sheila  
Hutchinson, Karen  
Kobel, Rudolph  
Morris, Richard  
Varrell, Thomas  
Wiley, Robert

**STRAFFORD**

Bickford, David  
Harrington, Michael  
Twombly, James

Brown, Julie  
Newton, Clifford  
Woods, Phyllis

Campbell, W Packy  
Scott, David

Easson, Timothy  
Taylor, Kathleen

**SULLIVAN**

Rodeschin, Beverly  
and the majority committee report was adopted.  
Ordered to third reading.

**HCR 10**, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Peter M. Sullivan for the Majority of State-Federal Relations and Veterans Affairs: This bill calls upon the Legislature to recognize the ratification of the so-called "original Thirteenth Amendment." This issue may have a place in the internet political discussion groups, but does not receive the support of the committee. Vote 7-4.

Rep. Richard Marple for the Minority of State-Federal Relations and Veterans Affairs: Page 101 of the House Journal of December 9, 1812 recorded that the committee assigned to report on this amendment was, "in their opinion, not expedient to adopt". The innate wisdom of the entire General Court ignored the committee's opinion, and it was ratified as recorded on Page 101 as aforesaid. The minority asks that the current General Court emulate their forebearers and do likewise. Rep. Marple spoke against.

Rep. Peter Sullivan spoke in favor.

On a division vote, 256 members having voted in the affirmative and 41 in the negative, the majority committee report was adopted.

**HCR 11**, relative to state and federal government relations. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Peter M. Sullivan for the Majority of State-Federal Relations and Veterans Affairs: In the 1860's, the United States fought a civil war over the issue of state vs. federal authority. In the 1950's, southern segregationists cited "State's Rights" in a failed effort to deny millions of Americans their God-given rights. Now, HCR 11 once again joins the battle over state vs. federal sovereignty. This resolution would have the New Hampshire Legislature second-guess the United States Supreme Court. To allow such activity is to undermine the rule of law and to turn our backs on over two centuries of established Constitutional principles. Vote 9-2.

Rep. Henry W. McElroy for the Minority of State-Federal Relations and Veterans Affairs: In 1787, the people's representatives for the thirteen sovereign states in session in Philadelphia in the Continental Congress took materials from several sources, including their then-existing State Constitutions, and wrote the United States Constitution. In this United States Constitution, the thirteen sovereign states spelled out precisely what the states wanted the federal government to do for them in Article 1, Section 8, Clauses 1-18. All other powers as stated in the 10th Amendment would remain with the sovereign states, respectively, or to the people. The states were to be the ultimate



authority. HCR 11 states that any activity on the part of any United States government official or function that is deemed as unconstitutional by the New Hampshire General Court shall not have any authority in New Hampshire.

Rep. McElroy spoke against.

Rep. Headd spoke in favor.

Majority committee report adopted.

### WITHOUT OBJECTION

Without objection, the Speaker made the remainder of bills on today's calendar Special Orders for the next session day, Thursday, January 29, 2004 in their Regular Calendar order.

### RESOLUTION

Rep. Hess offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, January 29, 2004 at 10:00 a.m.

Adopted.

### LATE SESSION

#### Third reading and final passage

**HB 803-FN-A-L**, relative to the establishment of municipal economic development and revitalization districts by municipalities.

**HB 516-L**, relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.

**SB 19-FN**, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

**HB 366**, relative to mercury reduction.

### PERSONAL PRIVILEGE

Rep. Slocum addressed the House.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 4:10 p.m.

### RECESS

(Rep. Edwin Smith in the Chair)

### RESOLUTION

Rep. Rogers Johnson offered the following: RESOLVED, that the late filing and drafting of the following bill having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bill numbered 2004 shall be by this resolution read a first and second time by the therein listed title, sent for printing, and referred to the therein designated committee.

Adopted.

### INTRODUCTION OF SUPPLEMENTAL HOUSE BILL

#### First, second reading and referral

**HB 2004-FN-L**, relative to the state 10-year transportation improvement program. (E. Smith, Ches 26: Public Works and Highways)

### RECESS

**(Rep. Elliott in the Chair)**

**RESOLUTION**

Rep. MacKay offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 314, 316, 325, 332, 342, 344, 360, 380, 390, 412, 415, 458, 497, 498, 500, 521 and Senate Joint Resolution 2 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees. Adopted.

**INTRODUCTION OF SENATE BILLS and SJR**

**First, second reading and referral**

**SB 314**, relative to access to medical records. (Commerce)

**SB 316**, relative to the payment of salaried employees. (Labor, Industrial and Rehabilitative Services)

**SB 325-FN-L**, relative to penalties for a false report to a law enforcement officer. (Criminal Justice and Public Safety)

**SB 332-FN**, relative to tolls for disabled veterans. (Public Works and Highways)

**SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies. (Science, Technology and Energy)

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. (Fish and Game)

**SB 360**, requiring written notification concerning certain offenders against children. (Criminal Justice and Public Safety)

**SB 380**, establishing a statewide incident command system. (Executive Departments and Administration)

**SB 390**, relative to liability of third person under workers' compensation. (Labor, Industrial and Rehabilitative Services)

**SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking. (Resources, Recreation and Development)

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. (Children and Family Law)

**SB 458**, relative to private driving instruction and exhibition facilities. (Transportation)

**SB 497-FN**, relative to renewal of electrician's licenses. (Executive Departments and Administration)

**SB 498-FN**, relative to the regulation of debt adjustment services. (Commerce)

**SB 500-FN**, relative to certain procedures of financial institutions. (Commerce)

**SB 521-FN**, increasing the penalty for identity fraud. (Criminal Justice and Public Safety)

**SJR 2**, designating a Purple Heart Trail in New Hampshire. (Resources, Recreation and Development)

**SENATE MESSAGE**

**NONCONCURRENCE**

**HB 304-A**, relative to state acquisition of certain acreage in the Connecticut Lakes headwaters tract and making an appropriation therefor.

**RECESS**

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 4

Thursday, January 29, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

O Lord of life and the gridiron, in the midst of a complicated and often dangerous world, we give You thanks for the entertaining distraction of competitive sports, and humbly lift up to You the New England Patriots for Your support in lieu of a long overdue World Series appearance. Though the long passes may get all the attention, remind us that, as in life, the small accomplishments often win the game, and that integrity and fairness are the goals we all strive to reach whether we win or lose. May the members of this honorable House find their accomplishments in the integrity and compassion they bring to the game of politics and may all they do make winners of each and every citizen of our beloved New Hampshire.

As always, we ask that You protect and defend all the men and women of our military, local law enforcement and emergency services whose sacrifice is our defense and the protection of our precious freedom. Amen.

Rep. Christopher H. Dunne led the Pledge of Allegiance.

The National Anthem was sung by Kaycee Sawyer, a third grade student at Holy Trinity School in Laconia.

### LEAVES OF ABSENCE

Reps. Corbin, Dennis Fields, Flanagan, Ford, Fraser, Goyette, Joseph Harris, Hutchinson, Lionel Johnson, Kerns, Robert L'Heureux, Milligan, Norelli, Owen, Pelletier, Irene Pratt, John Pratt, Reed, Rice, Ruffner, Scamman, Seldin and Tate, the day, illness.

Reps. Timothy Allen, Barry, Bergin, Callaghan, Chris Christensen, Currier, Daniels, Fitzgerald, Flayhan, Franklin, Jeffrey Gilbert, Hagan, Sandra Harris, Heon, Katsiantonis, Lessard, McCann, Morris, Poulin, Priestley, Rollo, Rowe, Shaw, Paul Smith and Zolla, the day, important business. Reps. Charles Laflamme and Joseph Manning, the day, illness in the family.

### INTRODUCTION OF GUESTS

Chip and Laurie Sawyer, Claire Boucher and Marilyn Sawyer, parents and grandmothers of today's singer, guests of Reps. Ahern, Robert LaFlam and Wendelboe. Don Dyer, guest of Rep. Nelson Allan. Pauline Sullivan, Beth Sullivan, Deb Capistrat and John Sullivan, wife, daughters and brother of Rep. Francis Sullivan. Deb Hogencamp, guest of Rep. Ed Smith.

Doorkeepers for the 2004 House session were recognized: Walter Sword, Lee Mason, Bill McNamee, Lou LeBreck and Heather Welch.

### COMMITTEE REPORTS

#### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 1268**, relative to bank reserve and lending procedures, removed by Rep. Marple.

**HB 1287**, establishing a study committee to review insurance statutes and rules to assure conformity with the mission statement published by the insurance department, removed by Rep. Lars Christiansen.

**HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons, removed by Rep. DeJoie.

Consent Calendar adopted.

**HB 1144**, establishing a committee to study banning alcohol sales at youth and family-oriented community events. **INEXPEDIENT TO LEGISLATE**

Rep. Karen K. McRae for Children and Family Law: The committee voted to ITL this study committee because the New Hampshire Liquor Commission is taking a pro-active position in enforcement and in the education of alcohol servers. The New Hampshire Lodging and Restaurant Association is committed to a public/private partnership to make certain that liquor is served appropriately at youth and family-oriented community events. Therefore, because all parties are working to improve communications and performance in this sensitive area, the committee felt that a study committee was unnecessary at this time. Vote 13-0.

**HB 1169**, relative to child support calculations based on one-time or irregular income. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret D. Hallyburton for Children and Family Law: This bill allows the court necessary discretion in its handling of one-time or irregular income in the calculation of child support. All testimony was in support of the bill, and the amendment makes the bill effective on passage. Vote 13-0.

**Amendment (0028h)**

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

**HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mary Stuart Gile for Children and Family Law: In 2002 the General Court enacted legislation to permit a juvenile committed to the Youth Development Center to remain committed beyond the juvenile's 17<sup>th</sup> birthday following a motion and determination by the court that the juvenile would benefit from additional supervision and services. This bill, as amended, affirms the legislature's intent that the motion must be filed by DHHS within 90 days prior to the juvenile's birthday. Because this bill simply clarifies existing law, it has no fiscal impact. Vote 11-0.

**Amendment (0059h)**

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-2 to read as 2-3:

1 Statement of Purpose. The general court acknowledges that current law requires the case of a juvenile committed to the youth development center (YDC) to be closed and the juvenile released no later than the juvenile's seventeenth birthday. The general court recognizes that circumstances may exist under which a juvenile committed to YDC may benefit from the ongoing jurisdiction of the court. The general court wishes to authorize the department of health and human services to determine whether a committed juvenile who is approaching his or her seventeenth birthday could benefit from the ongoing jurisdiction of the court and, if so, to authorize the department to file a motion requesting that the court retain jurisdiction over the committed juvenile until his or her eighteenth birthday. The general court also wishes to clarify that such motions may be brought only by the department and only relative to committed juveniles approaching their seventeenth birthdays.

**HB 1332**, relative to child support in cases of shared custody. **INEXPEDIENT TO LEGISLATE**

Rep. Mary Stuart Gile for Children and Family Law: The committee appreciates the sponsor's interest in presenting an important issue in cases of shared physical custody and proposing that child support decisions be adjusted based on the amount of time that the child spends with the obligor's parent. This issue is already under study in the Commission on Child Support, so the committee decided to wait for the commissioner's report before further consideration of this matter. Vote 14-0.

**HR 22**, relative to fathers' rights. **INEXPEDIENT TO LEGISLATE**

Rep. Karen K. McRae for Children and Family Law: The committee voted inexpedient because the issue of fathers' rights is actively being studied by the Commission on the Status of Men as well as other groups concerned with the father's role in the life of children. With regard to child support and visitation, the committee has other bills which can be used to address these matters. Vote 11-1.

**HB 1145**, prohibiting commercial faxes. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: In 1991 Congress adopted the Telephone Consumer Protection Act (TCPA). The act was designed to provide some protection against unsolicited

telemarketing calls, automated and pre-recorded phone calls and unsolicited facsimile advertising. The latter portion (facsimile advertising) was addressed by the Federal Communications Commission (FCC) in 1992 by (A) Prohibiting unsolicited advertisements being sent by FAX machines (B) Defining "unsolicited advertisements" (C) Requiring the sender to identify themselves to recipients and (D) Setting penalties from \$500 to \$1500 per violation for private rights of action and up to \$11,000 per violation for FCC billed fines. No one appeared before the committee either in favor of or opposed to the legislation. Vote 12-0.

**HB 1204-FN-A**, establishing an historic homeownership mortgage credit program. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: This bill would establish a tax credit program to promote and support the restoration and rehabilitation of designated historic properties. The sponsor requested that the bill be withdrawn. Consequently the committee recommends ITL. Vote 12-0.

**HB 1382**, relative to liens filed with public servants. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: The original bill as introduced would have required a judicial proceeding that must ensue before a lien could be filed. The sponsor offered an amendment that, if adopted, would have restrained the Secretary of State, town clerk or any city clerk from accepting or recording any federal liens unless it is as a result of an enforceable federal court order, and unless it complies with Part 2, Article 87 of the New Hampshire Constitution. The committee understood the entire basis of this proposed legislation was to disallow the Internal Revenue Service from establishing liens unless and until the issue had been adjudicated. Vote 11-1.

**HB 1195-FN**, increasing the penalty assessment on fines imposed by the courts. **INEXPEDIENT TO LEGISLATE**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill was filed with the intent to assure adequate funds for law enforcement training. Since the bill was filed circumstances have arisen that would make HB 1195 moot. Vote 15-0.

**HB 1414**, establishing a commission to study issues regarding the women's prison facility. **OUGHT TO PASS**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: HB 1414 establishes a commission to study issues regarding the women's prison facility. It will be comprised of legislative members, representatives on the Department of Corrections and Transportation, and an appointee of the Governor. The members will have expertise relative to the subject matter. This commission is established to study the adequacy of the current women's facility in Goffstown and make recommendations on whether to renew the current lease and further, to investigate the feasibility of renovating a state-owned building as a women's facility or some other alternative to the current facility in Goffstown. Vote 13-0.

**HB 1288-FN**, reducing the membership of the fish and game commission. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Laflam for Fish and Game: The committee saw no merit in the bill. There was no evidence provided to show that it was necessary. No one testified in favor. Vote 17-0.

**HB 1327-FN**, relative to allowing persons to be bonded for search and rescue costs in hiking and climbing in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Mary J. Gorman for Fish and Game: The majority of the committee felt most hikers and climbers are responsible individuals. Those who become stranded do so because of inexperience or lack of knowledge. Their intent is to enjoy the sport and not place themselves in a life and threatening situation. Bonding hikers seemed to be a paperwork and enforcement nightmare. Therefore, the bill is unnecessary. Vote 16-1.

**HB 1334**, relative to retention of records of fish and game law violations by the fish and game department. **OUGHT TO PASS**

Rep. David S. Woodward for Fish and Game: The passage of this bill will allow violations of New Hampshire Fish and Game Laws to be purged from the record after seven years. This is consistent with other similar violations in the state of New Hampshire. There was no opposition to this bill and Fish and Game thought it would save them money. Vote 16-1.

**HB 1192**, relative to psychotropic drug recommendations by public employees. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: New Hampshire has been cited by the Federal Drug Enforcement agency, as the state with the highest per capita use of various types of psychostimulants. Ritalin use has been a matter of concern for many particularly as it has been used by school children to help manage behavior problems. Legislators have filed considerable legislation over recent years indicating their concern. Very recently the newly appointed Commissioner of Health and Human Services has appointed an Advisory Committee regarding the use of Psychostimulants. This is a 19 member committee. The committee has broad membership including a representative from the legislature and the Governor's Office. The committee on Health, Human Services and Elderly Affairs looks forward to the findings of this group to enlighten them as to what legislative action should be taken. This bill specifically requires that "Any employee of state or local governments or any political subdivision thereof, who, in the performance of his or her official duties, recommends to a parent that his or her minor child receive psychotropic medication shall also disclose the potential side effects of such medication." The committee believes that unless a public employee has appropriate training and licensing, they should not be making suggestions as to use of medications or medical care. Therefore, it is also logical that public employees should not be providing medication side effects. Vote 15-0.

**HB 1234**, establishing a study committee to examine ways to prevent and address homelessness in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Sandra Harris for Health, Human Services and Elderly Affairs: As part of the White House Domestic Policy Council, the goal of the NH State Interagency Council on Homelessness is to develop and implement a comprehensive national approach to end homelessness in the US. The sponsor asked the committee to find this bill Inexpedient to Legislate since he wishes to form an ad hoc committee to study the homelessness in New Hampshire as part of the work of the Interagency Council, of which he is a member. Vote 13-0.

**HB 1266**, relative to the long-term care ombudsman. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill essentially is a rewrite and update of the law pertaining to the Office of the Long-Term Ombudsman. This office is a program established by the Federal Older Americans Act, which generally provides financial support for its operation. The bill emphasizes the autonomy of this office, which is essential to its proper functioning. The office is now administratively attached to the Department of Health and Human Services. There is no current intention to change that arrangement. However, the bill does allow for a transfer outside the department in the future if needed. This legislation also uses the term resident throughout instead of patient or client and incorporates gender neutral language. This bill brings the New Hampshire statute into congruency with federal statute. In addition, it specifically identifies the office of the Long Term Care Ombudsman as distinguished from the Ombudsman Office of the Department of Health and Human Services. Vote 14-0.

Referred to Finance.

**HB 1290**, establishing a time limit on the receipt of Temporary Assistance for Needy Families. **OUGHT TO PASS WITH AMENDMENT**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill provoked considerable concern and discussion. Three legislators spoke in favor of the bill. Ten individuals representing a variety of organizations spoke against it. The DHHS took a neutral position. Temporary Assistance for Needy Families is probably best known as the Welfare to Work Program. The general consensus is that this is a much needed and significant operation. TANF is now continuing to operate on a continuing resolution. Hopefully, Congress will vote to reauthorize TANF. Since this is an important subject, the committee felt that it should be studied to review some of the recommendations contained in the bill and to make suggestions for NH legislative changes when TANF is re-authorized. The committee voted unanimously to support the amendment authorizing further study on this complex matter. Vote 14-0.

**Amendment (0048h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study time limits on eligibility for Temporary Assistance for Needy Families (TANF).

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study eligibility periods for TANF. Specifically, the committee shall consider the feasibility and consequences of amending the state plan to provide that an individual may receive TANF for a maximum of 24 months during any consecutive 60-month period. The committee also may compare eligibility periods in New Hampshire with those of neighboring states, and may solicit such information and testimony as may be necessary to assist the committee in the performance of its duties.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to examine time limits on eligibility for Temporary Assistance for Needy Families.

**HB 1294**, establishing a committee to study the effect of the federal reauthorization of the Temporary Aid to Needy Families Program and its effect on the state of New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Janeen Dalrymple for Health, Human Services and Elderly Affairs: Although the sponsor was concerned that TANF may be discontinued, at this time TANF is operating on a continuing resolution and will continue until TANF is re-authorized by congress. Therefore consistent with the recommendation of DHHS a study of the TANF program is not needed. The Health, Human Services and Elderly Affairs Committee will send a copy of this document to the NH Congressional Delegation asking for their support of TANF reauthorization. All members of Health, Human Services and Elderly Affairs support the continuation of the TANF program in NH. At this time, this bill is completely unnecessary. Vote 14-0.

**HB 1322**, relative to the rules for the operation and regulation of supported residential care facilities. **INEXPEDIENT TO LEGISLATE**

Rep. Sandra C. Harris for Health, Human Services and Elderly Affairs: At a full committee hearing the prime sponsor requested that the bill be killed. Since this legislation was first requested, action has been taken and this bill would be redundant to rules being addressed through administration of the Department of Health and Human Services. Further legislation on this matter is no longer needed. Vote 14-0.

**HB 1323**, relative to the rules for the operation and regulation of residential care facilities. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill and HB 1322 were introduced to encourage the DHHS to proceed with the writing of administrative rules, pertaining to health care facilities. Legislation was recently passed requiring the DHHS to write separate rules for the several types of health care services and discontinue the writing of omnibus rules. In response, NH ARCH (Home Care Association of NH) has submitted to DHHS proposed revisions of 804/805 regulations. These rules are currently being drafted. In addition, the committee in a bill acted on very recently, gave specific advice on personal safety issues. The committee is satisfied that the rule making process is progressing. DHHS is responsive to legislative concern

about past slowness in producing rules. The Commissioner of DHHS is clear that he will only authorize administrative rules that are based on clear legislative intent. The long impasse of legislative rules expiring without new rules being adopted appears to be ending. Therefore, this bill has served a good purpose and is not now needed. Vote 14-0.

**HB 1397**, relative to youth suicide prevention. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janeen Dalrymple for Health, Human Services and Elderly Affairs: This bill expands the duties of the Health Education Review Committee to include specific consideration of youth suicide prevention initiatives. It is suggested an additional committee member include a school guidance counselor. Vote 13-0.

**Amendment (0070h)**

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Subparagraph; Health Education Review Committee; Membership; School Guidance Counselor Added. Amend RSA 186:67-a, II by inserting after subparagraph (o) the following new subparagraph:

(p) One member who is a school guidance counselor, appointed by the New Hampshire School Counselor Association.

**AMENDED ANALYSIS**

This bill expands the duties of the health education review committee to include specific consideration of youth suicide prevention initiatives. The bill also provides for the appointment of a school guidance counselor to the committee.

This bill is a request of the youth suicide prevention committee, 2003, 142 (HB 240).

**CACR 23**, relating to oaths of civil officers. Providing that all officers, department heads in the executive branch, and town officers shall take an oath before executing the duties of their office.

**INEXPEDIENT TO LEGISLATE**

Rep. Alf E. Jacobson for Judiciary: The committee view is that there were no urgent reasons to put this CACR to the people. Statutory law already requires those persons not constitutionally listed, such as selectmen and school board members, to take the oath of office. Vote 11-2.

**HB 1154**, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court. **OUGHT TO PASS**

Rep. Robert H. Rowe for Judiciary: The small town of Dorchester (350 citizens) requested that it be removed from the Plymouth-Lincoln District Court District and be incorporated in the Hanover-Lebanon District Court. This will allow the town to be served by the Lebanon District Court rather than the Plymouth District Court. The committee believes that the citizens of Dorchester will be best served by this transfer. The town is currently served by the rescue services from Canaan and is negotiating with Canaan to assume police duties in Dorchester. Canaan is already affiliated with the Lebanon District Court. The change in jurisdiction was requested by the town and the judiciary branch concurs with the request. Vote 12-0.

**HB 1238-FN**, requiring interpreters for persons with limited English proficiency in court and administrative proceedings. **INEXPEDIENT TO LEGISLATE**

Rep. Tony F. Soltani for Judiciary: This is a well-intentioned bill. Presently, under the mandates of federal and state Constitutions, a criminal defendant is entitled to the assistance of an interpreter so as to enable the defendant to understand the proceedings, participate in the proceedings and to meaningfully assist in their own defense. This bill would expand this right to all civil and administrative matters, at state, court, or municipal expense. This bill is too expensive and too complex and could be very expensive to implement. The state already expends approximately \$400,000 annually for English interpreters as pre-trial and trial costs. The several subjects raised should be studied independently, and individually. Vote 13-0.

**HB 1247-FN**, relative to a statewide law library network. **REFER FOR INTERIM STUDY**

Rep. Peter E. Franklin for Judiciary: This bill would establish a statewide law library network for the benefit of the public, particularly pro se litigants. The committee needs to determine such matters as the basic contents of each library (both print and electronic), the training of librarians, the locations of libraries, any 28-a issues, and whatever else may be needed to establish the network. Vote 13-0.



**HB 1381**, relative to the rights of citizens. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Wheeler for Judiciary: No one on the committee can understand this bill or its purpose. However, it appears that if this bill were passed people could elect not to get drivers licenses, hunting licenses, pay tax or a host of other things that could constitute "compelled performance" mandated by the government. With that quagmire of possibilities the committee unanimously voted this legislation Inexpedient to Legislate. Vote 13-0.

**HB 1383**, relative to full faith and credit in judicial proceedings. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: This bill would create a new chapter of the statutes, RSA 524-B, that would establish rules for registering and recognizing the decisions of the highest courts of sister states under the Full Faith and Credit clause of the federal constitution. It was the view of the committee that the testimony at the hearing indicated a fundamental misunderstanding of the scope of that clause, which undermined both the purpose of and necessity for this bill. The sponsors believed that any such decision automatically acquired standing as binding precedent, required to be enforced in all other states against all other persons. In fact, Full Faith and Credit jurisprudence seems clear that such a precedent is binding only in the state in which it was rendered, unless changed subsequently by statute or a superceding decision. What the Full Faith and Credit clause accomplishes is to make the result of that particular case binding upon the specific parties to the litigation, enforceable against them – and no one else – in any other state that may later acquire jurisdiction over them. Vote 18-0.

**HB 1384**, relative to challenges to statutes. **INEXPEDIENT TO LEGISLATE**

Rep. Harry M. Haytayan, Jr. for Judiciary: This bill would allow state laws to be challenged by the preparation of an affidavit. If passed, it would create disruption in the enforcement of state law and would lead to unintended consequences. The current system for challenging state statutes has worked efficiently and continues to do so. Vote 18-0.

**HB 1140**, relative to the disposal of surplus real estate. **INEXPEDIENT TO LEGISLATE**

Rep. Chris S. Malloy for Public Works and Highways: A working system is already in place to deal with surplus real estate. RSA 4:40 addresses the disposal of surplus property. Many of these land parcels were purchased for construction of highway projects. If we sell properties for \$1.00 the State would be liable to return all federal funds used for the original purchase of the property. Any surplus land should be sold so that the funds received could be used for the intended purpose of improving the highway system. Vote 13-0.

**HB 1196-FN-A-L**, relative to leasing a certain parcel of state-owned property to the town of Hopkinton. **INEXPEDIENT TO LEGISLATE**

Rep. Mark E. McConkey for Public Works and Highways: Action on this bill is no longer necessary. The Town of Hopkinton has an agreement to purchase a certain parcel of state owned property for the construction of athletic fields. Vote 13-0.

**HB 1197-FN-A-L**, relative to selling a certain parcel of state-owned property to the town of Hopkinton. **INEXPEDIENT TO LEGISLATE**

Rep. Mark E. McConkey for Public Works and Highways: Action on this bill is no longer necessary. The Town of Hopkinton has an agreement to purchase a certain parcel of state owned property for the construction of athletic fields. Vote 13-0.

**HB 1354-FN**, relative to certain tolls on the Everett Turnpike. **INEXPEDIENT TO LEGISLATE**

Rep. Saghir A. Tahir for Public Works and Highways: The sponsor of this bill recommended that this bill should be Inexpedient to Legislate. The committee agreed. Vote 13-0.

**HB 1186-FN**, relative to registration stickers issued to nonresidents operating snowmobiles in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Henry A. L. Parkhurst for Resources, Recreation and Development: This bill would have required out-of-state owners to pay an additional fee to register their snowmobiles. Realizing this may not be the appropriate way to go the committee and the sponsor have agreed on the ITL recommendation. Vote 13-0.

**HB 1273**, relative to the use of trails managed by OHRV clubs. **INEXPEDIENT TO LEGISLATE**

Rep. Dennis H. Fields for Resources, Recreation and Development: The Attorney General determined this bill as introduced could be in conflict with state liability laws regarding OHRVs trails. Sponsor requested to ITL the bill. Vote 11-2.

**HB 1207-FN-A, relative to an Operation Iraqi Freedom service bonus payment. OUGHT TO PASS WITH AMENDMENT**

Rep. James Headd for State-Federal Relations and Veterans Affairs: This bill establishes a bonus payment of \$300.00 for NH Veterans who served in active duty during the Global War on Terrorism and who earned the expeditionary medal provided they were discharged under honorable conditions. The effective date of this program was 9/11/01 and with a terminal date to be determined. This bonus program is in keeping with the traditions of prior awards to our servicemen. Vote 13-0.

**Amendment (0152h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to a Global War on Terrorism operations service bonus payment.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Global War on Terrorism Operations Service Bonus Payments. Amend RSA 115-A by inserting after section 15 the following new subdivision:

Global War on Terrorism Operations Service Bonus Payments

115-A:16 Qualifications for Bonus. Each person who actively served in any capacity as a member of the uniformed forces of the United States on or after September 11, 2001 and on or before a date to be determined by the Secretary of Defense, and who earned the expeditionary medal for Global War on Terrorism operations; and who was discharged, released or has a certificate of service therefrom, under honorable conditions, or who is missing in action or who was killed in action; and who at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be entitled to the benefits provided under this subdivision. A person shall demonstrate bona fide residency under this section through such person's home of record at time of entry as listed on a DD Form 214 or a written verification from a town or city clerk that such person was a resident of a New Hampshire town or city at the time of active service. No individual who has received a Global War on Terrorism operations bonus payment from another state shall be qualified to receive the benefits provided under this subdivision.

115-A:17 Roster. The director of the veterans council shall from time to time prepare a roster of the names of persons who have qualified for the bonus under RSA 115-A:16, and shall certify the same to the state treasurer, and prepare a manifest to authorize the state treasurer to make payments from funds not otherwise appropriated. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

115-A:18 Bonus Payment. In recognition of the services performed by the persons designated as eligible under RSA 115-A:16, the state treasurer, when such names are certified to the state treasurer as provided in RSA 115-A:17, and when application is made therefor, shall pay to each such qualified person the sum of \$300; and shall take such formal receipt as the state treasurer shall prescribe.

115-A:19 Payment in Cases of Incompetence or Death. If an eligible person is legally incompetent, payment shall be made to his or her legally appointed representative. If an eligible person dies before payment has been made to him or her, payment shall be made to such person's surviving spouse or, if none, to his or her child or children in equal shares; and if he or she has no surviving spouse or children, then in equal shares to his or her surviving parents. Payment shall not be made to more than 2 parents. Preference shall be given to the parent or parents who actually exercised parental control at the time of or most nearly prior to date of the qualified person's entry into service. Proof of relationship in loco parentis shall be established by sworn statement of the applicant, together with supporting affidavits of 2 disinterested persons.

115-A:20 Written Evidence Required in Certain Circumstances. No applications shall be certified for payment unless written evidence is presented indicating that any person or persons herein described as having a prior right to benefits has died; and provided further that if, prior to the date upon which this subdivision takes effect, benefits have been paid to the father or mother of a qualified person, who at the time had a child or children, the rights or benefits shall not in addition accrue to said child or children as a result of the provisions of this subdivision.

115-A:21 Time Limit; Late Applications. No bonus payment shall be made under this subdivision unless application for the bonus payment is submitted within 5 years after the effective date of this subdivision. Any claim for bonus payment after such 5-year period shall be made to the director of the veterans council, and if approved by the director shall be submitted to the state treasurer and shall be a charge upon the general fund.

115-A:22 Forfeiture of Bonus. Any person who obtains a bonus payment under this subdivision by fraud shall forfeit such bonus to the state.

2 Contingency. In keeping with the tradition of paying veterans benefits only after the cessation of operations as declared by the Secretary of Defense, this act shall take effect 6 months following the date on which such declaration is made.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a bonus payment for New Hampshire veterans of Global War on Terrorism operations.

Referred to Finance.

**HB 1378-FN-A**, relative to New Hampshire service medals for veterans of World War II, the Korean Conflict, and the Vietnam Conflict and making an appropriation therefor. **OUGHT TO PASS WITH AMENDMENT**

Rep. Barbara Shaw for State-Federal Relations and Veterans Affairs: In order to duly recognize the contributions of New Hampshire residents in service to their country, this bill establishes New Hampshire Service Medals for veterans of World War II, the Korean War, and the Vietnam War who were residents of New Hampshire at the time of their entrance into military service. Vote 13-0.

### Amendment (0117h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor.

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Service Medals for Veterans of World War II, the Korean War, and the Vietnam War. Amend RSA 115-A by inserting after section 15 the following new subdivision: New Hampshire Service Medals

115-A:16 New Hampshire Service Medals.

I. The adjutant general shall, with the cooperation and advice of the director of the state veteran's council and the state veterans advisory committee, design and cause to be manufactured service medals for service in World War II, the Korean War, and the Vietnam War.

II. The medals shall be bronze and shall be designed in a manner which:

(a) Indicates the major branches of the armed forces, which are the army, navy, air force, marine corps, and coast guard.

(b) Displays the seal of the state of New Hampshire and a likeness of the "Old Man of the Mountain."

(c) Displays an inscription stating that the medal is a "New Hampshire Award for Service," the name of the war in which the recipient served and the beginning and ending dates of the war.

115-A:17 Eligibility for Medal. Any person who served in any of the following wars; who, if deemed necessary by the adjutant general, earned the appropriate service medal; and who was honorably discharged, or who is missing in action, or who was killed in action; and who, at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be eligible for the medal provided under this subdivision. Eligible service is service in:

I. "World War II" between December 7, 1941 and December 31, 1946.

II. The "Korean War" between June 27, 1950 and January 31, 1955.

III. The "Vietnam War" between August 5, 1964 and May 7, 1975 or between February 28, 1961 and May 7, 1975 for persons who served in Vietnam prior to August 5, 1964.

115-A:18 Application for Service Medal. Any person eligible for a service medal under this subdivision, or if such person is incapacitated or deceased, the surviving spouse or child of such eligible person, may apply to the adjutant general for such service medal during 2-year application time periods established by the adjutant general for each war. The adjutant general shall establish application forms and procedures.

115-A:19 Rulemaking. The adjutant general shall adopt rules, pursuant to RSA 541-A, relative to:

I. The dates for the 2-year application time period for each war for which a service medal may be awarded under this subdivision.

II. Application forms and procedures under RSA 115-A:18.

III. Any other matter deemed necessary by the adjutant general relative to the design, manufacture, or distribution of service medals under this subdivision.

115-A:20 Gifts, Grants, and Donations. Notwithstanding any other provision of law, the adjutant general may solicit and receive monetary gifts, grants, or donations for the purpose of paying costs of the design, manufacture, and distribution of New Hampshire service medals under this subdivision.

115-A:21 New Hampshire Service Medal Fund. There is established in the office of the state treasurer a fund to be known as the New Hampshire service medal fund. All monetary gifts, grants, and donations received by the adjutant general pursuant to RSA 115-A:20 shall be deposited in such fund. The fund is established to pay the costs of the design, manufacture, and distribution of New Hampshire service medals under this subdivision. The money in this fund shall be non-lapsing and shall be continually appropriated to the department of the adjutant general.

### AMENDED ANALYSIS

This bill establishes New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War who were residents of New Hampshire at their time of entrance into military service. An appropriation is made to the adjutant general for purposes of design, manufacture, and distribution of the medals.

**HR 20**, supporting Taiwan's participation in the World Health Organization. **OUGHT TO PASS**  
Rep. Richard A. McCann for State-Federal Relations and Veterans Affairs: Whereas Taiwan has enjoyed a cross collaboration with the U.S. Centers for Disease Control and a willingness to assist financially and technically in international health activities supported by World Health Organization, the committee voted unanimously to support this House Resolution. Vote 12-0.

**HR 23**, urging the President and Congress to amend federal selective service and immigration laws to grant the right of citizenship to all immigrants honorably discharged from United States military service. **OUGHT TO PASS**

Rep. Cynthia P. Sweeney for State-Federal Relations and Veterans Affairs: The committee believes that after honorable service in the United States Armed Forces an immigrant veteran deserves the full benefits of citizenship as soon as possible. Vote 11-2.

**HB 1139**, relative to vehicles stopping in travel lanes. **INEXPEDIENT TO LEGISLATE**

Rep. Brenda L. Ferland for Transportation: This bill was about vehicles stopping in travel lanes and upon departing a vehicle without first activating the emergency lights. The prime sponsor was the only speaker who related one incident where a vehicle hit a truck that was parked in or near the travel lane. The committee felt that there are enough laws to cover standing, disabled, or parked vehicles without enacting this one. Vote 11-0.

**HB 1259**, relative to the medical certification required for a walking disability plate or placard. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: Passage of this bill will give a licensed podiatrist the ability to issue a certification for someone to apply for the walking disability placard or plate. Under current law, physicians are the only ones allowed to do this. But upon testimony given it was learned that some people go to a podiatrist and have surgery done and do not go to their regular doctors. This would lessen the burden on the patient. The only opposition was concern of opening the door for other medical people. Nothing in this legislation does that. Vote 11-0.

**CACR 20**, relating to the conservation of the gravel and water resources of the state. Providing that the general court may provide for special assessments, rates and taxes on gravel and water extracted from the resources of the state. **INEXPEDIENT TO LEGISLATE**

Rep. Susan W. Almy for Ways and Means: The sponsors of this amendment have the laudable goal of protecting our water resources for the future. However, they have not yet worked out a plan on how to use the resulting constitutional language, if passed by the people. When the timber tax language was entered into our constitution, there was a clear plan and justification available for us and other citizens to judge. The constitution should only be amended after full consideration of the practical consequences as well as the goal. Vote 14-0.

**CACR 21**, relating to state education property tax exemption for certain disabled veterans. Providing that veterans with certain service connected disabilities shall be exempt from the state education property tax. **INEXPEDIENT TO LEGISLATE**

Rep. Kurt J. Roessner for Ways and Means: The sponsor of this CACR requested that it be designated inexpedient to legislate since its subject matter would be included in HB 1370. Vote 18-0.

**HB 1168**, establishing a committee to study the effects of the current business tax structure on New Hampshire's economy. **INEXPEDIENT TO LEGISLATE**

Rep. Kurt J. Roessner for Ways and Means: The subject matter of this bill is included in two other interim studies being recommended for HB 1387 and HB 1388. Vote 15-0.

**HB 1213-FN-L**, exempting persons age 70 and older from the state and local education portion of property taxes. **INEXPEDIENT TO LEGISLATE**

Rep. Tom F. McCormick for Ways and Means: The committee agrees the subject matter of this bill warrants further study and will be including it in a comprehensive study of all local and state property tax relief proposals. The comprehensive study is included in HB 1370. Vote 18-0.

**HB 1311-FN**, relative to the insurance premium tax. **OUGHT TO PASS WITH AMENDMENT**

Rep. David W. Hess for Ways and Means: As introduced, this bill would have decreased the insurance premium tax resulting in a significant reduction in general fund revenue. During the hearing, however, representatives of both the Insurance Department and the private insurance industry asked for the opportunity to conduct an exhaustive study of the potential economic development opportunities which could accrue to the state if this tax were reduced. The private sector offered to pay the entire cost of such a study. Since such a study could not be conducted, completed, digested by the committee, and acted upon responsibly during the session, the Ways and Means Committee voted unanimously to establish a statutory study committee to receive and consider such a report and to make recommendations based upon the findings. Vote 15-0.

#### Amendment (0161h)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study decreasing the insurance premium tax.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study decreasing the insurance premium tax from 2 percent to one percent.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Five members of the house of representatives, appointed by the speaker of the house.

(b) Five members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the issue of decreasing the insurance premium tax from 2 percent to one percent.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Six members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to study decreasing the insurance premium tax from 2 percent to one percent.

**HB 1344-FN-A**, allowing a deduction against the business profits tax for employer-paid health insurance premiums. **INEXPEDIENT TO LEGISLATE**

Rep. David W. Hess for Ways and Means: The purpose and intended effect of this bill was unclear. Employer-based health insurance premiums are already allowed as a deduction to businesses in

calculating the amount of business profits tax they owe. They aren't currently considered in calculating the business enterprise tax and this bill would not change that. Consequently this bill is redundant and unnecessary. Vote 15-0.

**HB 1356-FN-A-L**, assessing a fee on water withdrawn for commercial bottling purposes from water supply sources in the state. **INEXPEDIENT TO LEGISLATE**

Rep. Russell F. Ingram for Ways and Means: This bill would impose a \$.05 per gallon fee for water withdrawal from a source in New Hampshire for the purpose of commercial bottling as a business. There was some concern as to whether this fee could be considered a new tax and unconstitutional. It was felt that this bill would put existing bottling plants at a disadvantage to out-of-state competitors and also discourage the expansion of their present volume. Any new bottling plant would have to pay the \$.05 per gallon from the first gallon. This would discourage any new competition. There is presently a committee under SB 155 to study this and other concerns relative to water and it is to submit its report by November 30, 2004. This bill precludes this study and we should wait for the study committee report to help us on a decision at some future time. Vote 14-0.

**HB 1370**, establishing a committee to study property tax relief for low-income and elderly persons. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeffrey D. Gilbert for Ways and Means: This chapter study bill will establish a committee of five representatives and five senators to undertake an exhaustive study of all existing state and local property tax relief programs and to entertain and evaluate proposals to modify them. The committee believes that this study is particularly timely in light of the success in 2003 of the new statewide property tax relief program targeted at certain low-income property owners and recently enacted significant changes to the statewide property tax. In contrast to prior years, in 2003 there was an increase of 700% in the use of the existing program. The committee expects that the study may result in recommendations to enhance this success and better integrate the many present state and local forms of credits, abatements, exemptions and reimbursements. Vote 18-0.

#### **Amendment (0166h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study property tax relief.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to study property tax relief, without implementing any new broad-based tax.

Amend subparagraphs I(a) and I(b) as inserted by section 2 of the bill by replacing them with the following:

(a) Five members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Five members of the senate, appointed by the president of the senate.

Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study any and all existing and proposed state and local property tax relief proposals including, but not limited to, abatements, credits, exemptions, and reimbursements.

Amend the bill by replacing section 5 with the following:

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library in an interim report on or before November 1, 2004 and in a final report on or before November 1, 2005.

#### **AMENDED ANALYSIS**

This bill establishes a committee to study property tax relief.

**HB 1387-FN-A**, reducing the rate of the business enterprise tax. **REFER FOR INTERIM STUDY**  
Rep. Robert J. Giuda for Ways and Means: This bill would reduce the rate of the Business Enterprise Tax from 0.75 to 0.25 percent over a five year period. The sponsor's goal is to create a better business environment and reward risk taking and spur economic growth. This bill has significant revenue implications and the committee felt this bill should be sent to interim study to fully analyze the concept. Vote 15-0.

**HB 1388-FN-A**, reducing the rate of the business profits tax. **REFER FOR INTERIM STUDY**  
Rep. Daniel M. Hughes for Ways and Means: This bill would reduce the rate of the business profits tax to 4% over a five-year period. The sponsors goal is to create a better business environment and reward risk taking and spur economic growth. This bill has significant revenue implications and the committee felt the bill should be sent to interim study to more fully analyze this concept. Vote 15-0.

**HB 1402-FN-A**, requiring a discount to wholesalers on cash purchases of tobacco tax stamps. **REFER FOR INTERIM STUDY**  
Rep. David W. Hess for Ways and Means: On its initial vote on this bill, half of the Ways and Means Committee felt we could not afford the reductions in revenue which would result from allowing this discount. The other half of the committee felt that it was fundamentally unfair to have tobacco wholesalers, who place the stamps on the tobacco packages, essentially collect the tobacco tax without receiving some compensation for that effort. Upon further reflection, the committee decided to study this issue further during interim study. Vote 12-2.

### REGULAR CALENDAR

**HB 1275-FN-A**, relative to the role of the department of health and human services in juvenile proceedings. **OUGHT TO PASS**  
Rep. Margaret D. Hallyburton for Children and Family Law: While the department has standing in these cases now, they are sometimes overlooked on distribution of pleadings and notices. This bill will ensure that the department is a full party to the case. The bill does not impose new duties on the department. Vote 11-2.  
Adopted and ordered to third reading.

**HB 1285**, restricting owners of land in current use and land acquired with public funds from posting for no hunting. **INEXPEDIENT TO LEGISLATE**  
Rep. Peter H. Allen for Environment and Agriculture: Overwhelming testimony, representing many viewpoints, opposed this bill as not in the public interest and not workable. If there is thought of this type of legislative initiative it would be best to start over. Vote 11-2.  
Adopted.

**HB 1157**, establishing a committee to study the feasibility of implementing model legislation on medical resident work hour restrictions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**  
Rep. Peter L. Batula for the Majority of Health, Human Services and Elderly Affairs: This was a bill with good intentions to implement model legislation dealing with the restriction of working hours in the medical field. The committee recognizes that in the past medical personnel were required to work hours beyond the safety point of good medical care. We had professional testimony from a Dartmouth physician and a Concord Hospital physician that corrective measures have been taken through federal legislation that now puts restrictions on medical personnel hours worked. In the opinion of these professional medical personnel passage of this bill is unneeded and redundant. The prime sponsor agrees that the concerns of this bill should be incorporated into a current commission that is studying methods of reducing medical errors, many possibly caused by over-worked medical personnel and related matters. The chairman of the medical errors study committee has also agreed to incorporate the concerns of this bills sponsor into their studies. The Health Committee overwhelmingly agreed that this bill is redundant and is unnecessary since all the matters are either already dealt with under federal guidelines or will be addressed in a current and ongoing health committee. Vote 12-2.

Rep. Hilda W. Sokol for the Minority of Health, Human Services and Elderly Affairs: Although the sponsor of this bill agreed to put the bill under the rubric of the Medical Errors Commission (Department of Health and Human Services) we believe that the intent of HB 1157 goes beyond medical errors only some of which may be attributed to excessive working hours. The ability to learn and absorb information is reduced where mind and body are physically exhausted. Medical residency programs are an extension of medical education, and not all hospitals adhere to the guidelines established by the Accreditation Council of Graduate Medical Education.  
Majority committee report adopted.

**HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases. **OUGHT TO PASS**

Rep. Pamela Price for Health, Human Services and Elderly Affairs: The intent of this bill is to study access to medical records of persons with highly communicable diseases. There are ways to access medical records currently. The Public Health Department can access records for their own purposes, which can not be released to any provider or individual. A provider can access records with the permission of the individual. There is a judicial remedy through legal action. State laws may allow access to records, such as covered under 141-G, the section relating to emergency response workers. Furthermore, we learned that treatment protocols may change if there is a known exposure. Treatment is started right away while further testing is done to determine if the individual has contracted the disease. Many questions arose in the course of the subcommittee sessions, which is the reason for recommending further study. The study committee will examine state laws as they relate to HIPAA, which diseases may be covered, who may access information, in what format and when they may be accessed. Additionally, this committee will examine RSA 141-G because of the transfer of some public health and bioterrorism responsibilities from Health and Human Services to the Department of Safety. It is the belief of our committee that this complex issue warrants further study. We recognize that in the end the study committee may recommend no changes in law. Vote 14-0.

Adopted and ordered to third reading.

**HB 1277-FN**, requiring assisted living facilities to have certain security measures for residents. **INEXPEDIENT TO LEGISLATE**

Rep. Pamela G. Price for Health, Human Services and Elderly Affairs: This bill requires assisted living facilities and housing for elders to secure their exits during the evening. The bill was filed as a result of one case where a confused elderly resident wandered away from their home, undetected for hours. The committee recognizes the importance of security for the safety of clients in care facilities. Licensed residential care facilities have a range of clients from the very healthy who are planning for future health needs to those who require some degree of assistance. We heard testimony that the elderly fear loss of independence and dignity by having to ask permission to leave the premises. It is important to assess the individual needs of the client rather than pass a blanket mandate for all. This issue is being addressed in rules, which can account for the varying needs and facilities. We understand that the Department of Health and Human Services is currently working on draft rules, which cover this subject. Specifically, the committee supports the concepts proposed by the NH Association of Residential Care Homes which details the written action plans and security measures based upon the assessed degree of elopement risk. Vote 16-0.

Adopted.

**HB 1318-FN-A**, relative to a senior care provider program and making an appropriation therefor. **INEXPEDIENT TO LEGISLATE**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: Over the past six years the General Court has carefully studied and passed legislation concerning long term care for the elderly and disabled. Services are available on a spectrum from home health care, assisted living to nursing home care. Emphasis has been placed on the importance of individual choice, informed consent and the least intrusive care. For individuals who are eligible for medicaid nursing home care, they can also receive care in other facilities. The prime sponsor of this bill brought to the committee some new ideas. One concept was the cross-utilization of specialized beds that could be used for more than one type of condition. It was felt that the concepts were not in a fully conceptualized form. Rather than form a new study committee to work on the various concepts, it was thought that the existing Oversight Committee on Elderly and Adult Services is the appropriate group to work with the sponsor. They will be notified to incorporate the thoughts of this matter into their current study efforts. Vote 13-0.

Adopted.

**HB 1365-FN**, relative to protecting hearing ear dogs, guide dogs, and service dogs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janceen Dalrymple for Health, Human Services and Elderly Affairs: This bill requires a person who owns an animal that interferes or injures a seeing eye or hearing ear dog or a service type dog, to make full restitution for the loss of sensory assistance to an individual. In addition to any criminal action the owner of the offending animal will provide restitution of the replacement of



the service animal. In addition the bill recommends to the Governor that a day be set aside as seeing/hearing eye dog awareness day to ensure the public understands the seriousness of interference and value of service animals to their owners. Vote 15-0.

#### **Amendment (0149h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to hearing ear dogs, guide dogs, and service dogs.

Amend the bill by replacing all after the enacting clause with the following:

1 Hearing Ear Dogs, Guide Dogs, and Service Dogs; Penalty. Amend RSA 167-D:9 to read as follows:

167-D:9 Penalty; *Restitution Required.*

I. Any person violating any provision of this chapter shall be guilty of a misdemeanor.

*II.(a)(1) In any case in which the defendant is convicted under this section, he or she shall also be ordered to make full restitution for all damages, including incidental and consequential expenses incurred by the animal user and the animal which arise out of or are related to the criminal offense. Restitution for a conviction under this section shall include, but is not limited to:*

*(A) The value of the replacement of an incapacitated or deceased hearing ear dog, guide dog, or service dog, the training of such animal, or retraining of the affected animal and all related veterinary and care expenses; and*

*(B) Medical expenses of the animal user, training of the animal user, and compensation for wages or earned income lost by the animal user.*

(2) Any moneys received for restitution under this subparagraph relative to the value of the replacement of an incapacitated or deceased hearing ear dog, guide dog, or service dog, the training of such animal, or retraining of the animal shall be given to the organization which donated the dog, if such organization is known.

(b) Nothing in this paragraph shall affect any civil remedies available for violation of this chapter.

*(c) For purposes of this paragraph, "value" means the value to the hearing ear, guide, or service animal user and does not refer to cost or fair market value.*

2 Hearing Ear Dogs, Guide Dogs, and Service Dogs; Public Awareness Day. The general court hereby requests that the governor proclaim a day to recognize the value of hearing ear dogs, guide dogs, and service dogs and to promote public awareness of the value of such dogs. The governor shall urge local communities to observe such day to recognize the value of such service animals and to promote public awareness of the value of service animals.

3 Effective Date. This act shall take effect January 1, 2005.

#### **AMENDED ANALYSIS**

This bill requires a person interfering with a hearing ear dog, guide dog, or service dog to make full restitution for all damages. The bill also requests the governor to proclaim a day to recognize the value of services animals and to promote public awareness of the value of such animals.

Adopted.

Report adopted.

Referred to Criminal Justice and Public Safety.

#### **HB 1194, establishing a study committee relative to notifying tenants of radon in rental units. INEXPEDIENT TO LEGISLATE**

Rep. James E. Wheeler for Judiciary: The committee believes that this bill is simple enough that if the sponsors would like to require landlords to notify tenants of radon in rental units they should put in a bill to do just that. While the committee understands that radon is a possible problem, the committee is of the opinion that there are serious concerns about requiring landlords to notify tenants about radon. First, if we want landlords to notify about radon, are we going to require them to pay for the testing? Second, if we require them to test and notify about radon where will it stop — MTBE, asbestos, lead in the water, mold, or other perceived health hazards? Finally, since it is not required for the transfers of homes where a person might live for extended periods of time, why should we require it for tenants, who might only live in an apartment only for a few years? It is the opinion of the committee that this bill is inappropriate at this time, as it has not been definitely determined what the health risks of radon exposure and the extent of the problem may be. After all, radon comes from the natural erosion of granite and this IS the Granite State. Vote 16-4.

Adopted.

**SPECIAL ORDERS****HB 243, relative to motor vehicle exhaust noise standards. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Lawrence A. Artz for the Majority of Transportation: This bill addresses redundant language in respect to the current statute that is causing some confusion regarding interpretation and enforcement of the current motor vehicle exhaust noise standards. The bill still retains the language requiring a muffler defined by current state law on every motor vehicle to be maintained in good working order and to prevent excessive or unusual noise, as well as to prevent the escape of excessive fumes, smoke, flame, gas, oil or fuel residue. This bill permits the use of non-factory specification exhaust system components that are industry-certified for legal use on motor vehicles where strict interpretation of the current statute would otherwise prohibit its use. This is of particular concern in situations where factory specification exhaust system components are no longer available due to vehicle age or other circumstances, or where a more durable and/or performance-oriented exhaust system component becomes available for a particular motor vehicle application. Vote 8-7.

Rep. Brenda L. Ferland for the Minority of Transportation: This bill was about exhaust noise levels and setting a 95-decibel reading on aftermarket systems. Some new systems have been modified by owners and car owners should be able to purchase another system and meet the standards. Because there are laws already in existence regarding noise levels and aftermarket exhaust systems, the minority of the committee feels this bill is not necessary.

**Amendment (2478h)**

Amend the bill by replacing section 1 with the following:

1 Repeal. RSA 266:59, III, relative to modification of motor vehicle exhaust system, is repealed.

**AMENDED ANALYSIS**

This bill repeals a limitation on the modification of motor vehicle exhaust systems.

Majority amendment adopted.

Majority committee report adopted and ordered to third reading.

**HB 266, requiring youth bicyclists and skateboarders to wear protective headgear. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. George N. Katsakiores for the Majority of Transportation: The amended bill requires youth bicyclists under 16 years of age to wear protective headgear. As we are all aware, serious head injuries to bicyclists can be traumatic and devastating. Testimony before the committee supported the amended bill from organizations such as the New Hampshire Hospital Association to the Department of Health and Human Services Office of Community and Public Health to the American Automobile Association (AAA) and the New Hampshire Bike Association. Nobody appeared in opposition. A total of 335 children less than 16 years of age were seen in hospital emergency departments for head injuries resulting from riding bicycles in 1999-2000. The New Hampshire Transportation Safety Agency (NHTSA) states that bicycle helmets are 85-88% effective in mitigating head and brain injuries. Vote 8-7.

Rep. Robert J. Letourneau for the Minority of Transportation: The minority of the committee adamantly opposes this proposed legislation that, in our opinion, reaches too far into the lives of New Hampshire citizens. While we believe that all children should protect their head, knees and elbows while riding bicycles, rollerblades, rollerskates, skateboards, skydiving, skiing, or when engaged in any other numerous risky activities, we also believe that this is a personal responsibility issue that is best left to the parents and citizens involved. After all, they have a vested interest in their own safety. We believe that this legislation is flawed in many ways. There is no exemption for private property. There is no standard for the protective headgear and the bill leaves that decision to the Commissioner of Health and Human Services. The penalty for this infraction is a violation. Who will enforce the law? Who will be responsible for the fine, and how will this criminal record affect the child's future in terms of law enforcement? Will the parents be responsible for the fine and ultimately the record? We do not know, and the bill does not address these concerns. The sponsors of this bill did not show any evidence that this is a major problem in New Hampshire. There were no New Hampshire statistics showing that we need this law. The testimony was based upon emotion rather than fact. We understand the compassion and intent of the sponsors,

but disagree on the solution. The bottom line is that this bill reaches into the personal lives of New Hampshire citizens, and the minority of the committee trusts our citizens to make the right choices in terms of safety both for themselves and their children.

### **Majority Amendment (2374h)**

Amend the title of the bill by replacing it with the following:

AN ACT requiring youth bicyclists to wear protective headgear.

Amend the bill by replacing section 2 with the following:

2 New Paragraph; Riding on Bicycles; Headgear. Amend RSA 265:144 by inserting after paragraph IX the following new paragraph:

X. No person less than 16 years of age may operate or ride upon a bicycle unless he or she wears protective headgear of a type approved by the commissioner of health and human services.

Amend the bill by deleting sections 3-4 and renumbering the original section 5 to read as 3.

### **AMENDED ANALYSIS**

This bill requires youth bicyclists to wear protective headgear.

Majority amendment adopted.

Rep. Ferland spoke against.

Reps. Phyllis Katsiakores and Scanlon spoke in favor.

Rep. Letourneau spoke against and yielded to questions.

Rep. Casey spoke in favor and yielded to questions.

Rep. Scanlon requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

### **YEAS 162 NAYS 166**

#### **YEAS 162**

#### **BELKNAP**

Boyce, Laurie

Clark, Charles

Pilliod, James

#### **CARROLL**

Brown, Carolyn

Derby, Mark

Olimpio, J Lisbeth

#### **CHESHIRE**

Allen, Peter

Dexter, Judson

Dunn, James

Eaton, Daniel

Espiefs, Peter

Fish, Douglas

Laurent, John

Meador, David

Mitchell, McKim

Parkhurst, Henry

Richardson, Barbara

Robertson, Timothy

Slack, Pamela

Weed, Charles

#### **COOS**

Mears, Edgar

Pratt, Leighton

Richardson, Herbert

#### **GRAFTON**

Akins, Ralph

Almy, Susan

Benn, Bernard

Bleyler, Ruth

Cooney, Mary

Densmore, Edward

Diamond, Estelle

Dudley, Terri

Hammond, Lee

Naro, Debra

Nordgren, Sharon

Scovner, Nancy

Sokol, Hilda

Solomon, Peter

Williams, Burton

#### **HILLSBOROUGH**

Balcom, John

Beaton, William

Bergeron, Jean-Guy

Brassard, Paul

Bruno, Pierre

Cail, Kenneth

Carlson, Donald

Carter, Jeffrey

Carter, Mark

Chabot, Robert

Clayton, William

Clemons, Jane

Cote, David

Cote, Peter

Coughlin, Pamela

Craig, James

Dokmo, Cynthia

Drisko, Richard

Emerton, Larry

Fletcher, Richard

Gargas, Carolyn

Gonzalez, Carlos

Graham, John

Haley, Robert

Hallyburton, Margaret

Irwin, Anne-Marie

Jean, Claudette

Kopka, Angeline

Lasky, Bette

Leach, Edward

Malloy, Chris

Martin, Mary Ellen

McHugh, Claire  
Pappas, Christopher  
Ross, Lawrence  
Stepanek, Stephen

Messier, Irene  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Francis

Michon, Stephen  
Price, Pamela  
Schulze, Joan  
Wheeler, Robert

Palangas, Eric  
Reeves, Sandra  
Spiess, Paul

### MERRIMACK

Blanchard, Elizabeth  
Davis, Frank  
Gile, Mary  
Kenison, Leon  
Potter, Frances

Bouchard, Candace  
DeJoie, John  
Hager, Elizabeth  
MacKay, James  
Reardon, Tara

Brueggemann, Donald  
Foley, Albert  
Hamm, Christine  
Osborne, Jessie  
Rush, Deanna

Clarke, Claire  
French, Barbara  
Jacobson, Alf  
Perkins, Randy  
Wallner, Mary Jane

### ROCKINGHAM

Belanger, Ronald  
Casey, Kimberley  
Dumaine, Dudley  
Gould, Kenneth  
Katsakiores, Phyllis  
McEachern, Paul  
Robertson, Carl  
Vallone, Matthew

Bishop, Franklin  
Dalrymple, Janeen  
Flanders, John Sr  
Griffin, Mary  
Kelley, Jane  
Noyes, Richard  
Shultis, Elizabeth  
Weldy, Norman Jr

Blanchard, MaryAnn  
DiFruscia, Anthony  
Gillick, Thomas  
Hamel, Albert  
Langone, John  
O'Neil, Michael  
Splaine, James  
Weyler, Kenneth

Bridle, Russell  
Dodge, Robert  
Gleason, John  
Katsakiores, George  
Manning, John  
Pitts, Jacqueline  
Tufts, J Arthur

### STRAFFORD

Berube, Roger  
Dunlap, Patricia  
Kaen, Naida  
Musler, George  
Snyder, Clair

Brown, Julie  
Grassie, Anne  
Keans, Sandra  
Rous, Emma  
Taylor, Kathleen

Campbell, W Packy  
Hofemann, Roland  
Knowles, William  
Schmidt, Peter  
Wall, Janet

Creteau, Irene  
Johnson, Nancy  
Miller, Joseph  
Smith, Marjorie

### SULLIVAN

Allison, David  
Flint, Gordon Sr

Burling, Peter  
Jones, Constance

Cloutier, John  
Leone, Richard

Donovan, Thomas

### NAYS 166

### BELKNAP

Ahern, Omer Jr  
Holbrook, Robert  
Russell, David

Allen, Janet  
Laffam, Robert  
Thomas, John

Bartlett, Gordon  
Lawton, David  
Wendelboe, Fran

Flanders, Donald  
Nedeau, Stephen  
Whalley, Michael

### CARROLL

Babson, David Jr  
McConkey, Mark  
Philbrick, Donald

Dickinson, Howard  
Merrow, Harry  
Stevens, Stanley

Hatch, Paul  
Mock, Henry

Kenney, Bettie  
Patten, Betsey

### CHESHIRE

Hunt, John  
Tilton, Anna

Liebl, George  
Webber, Amy

Royce, H Charles

Smith, Edwin

### COOS

Brady, Mark  
Theberge, Robert

Guay, Lawrence  
Tholl, John Jr

King, Frederick  
Woodward, David

Stohl, Eric

### GRAFTON

Alger, John  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Giuda, Robert

Dorsett, Andrew  
Ingbertson, Paul

Eaton, Stephanie  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Baroody, Benjamin	Batula, Peter	Bouchard, David
Brundige, Robert	Buhlman, David	Cernota, Albert	Christiansen, Lars
Crane, Elenore Casey	Dionne, Kimberly	Elliott, Larry	Gibson, John
Gorman, Mary	Greenberg, Gary	Hall, Charles	Hansen, Ryan
Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton
Holden, Randolph	Hopper, Gary	Infantine, William	Jasper, Shawn
Kurk, Neal	LaFlamme, Paul	Lawrence, James	Lefebvre, Roland
Luebker, Bernard	McElroy, Henry Jr	McRae, Karen	Mercer, Robert
Mooney, Maureen	Moran, Edward	Mosher, William	Movsesian, Lori
O'Brien, Lori	Ober, Russell III	Pappas, Marc	Pepino, Leo
Slocum, Lee	Souza, Kathleen	Sullivan, Peter	Sweeney, Cynthia
Tahir, Saghir	Vaillancourt, Steve	Wheeler, James	

**MERRIMACK**

Anderson, Eric	DeStefano, Stephen	Dunne, Christopher	Field, William
Hess, David	Kennedy, Richard	L'Heureux, Stephen	Langer, Ray
Leber, William	Lockwood, Priscilla	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Oliver, James	Soltani, Tony

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Cady, Harriet	Camm, Kevin
Carson, Sharon	Clark, Vivian	Coes, Betsy	Cooney, Richard
Doyle, Christopher	Duffy, James	Fesh, Bob	Francoeur, Sheila
Gilbert, Karl	Headd, James	Holland, James Jr	Hughes, Daniel
Ingram, Russell	Introne, Robert	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Kobel, Rudolph	Langley, Jane	Letourneau, Robert
Major, Norman	McKinney, Betsy	McMahon, Charles	Moore, Benjamin
Packard, Sherman	Pantelakos, Laura	Putnam, Ed II	Quandt, Matthew
Rausch, James	Roessner, Kurt	Smith, Donald	Stone, Joseph
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Welch, David
Wiley, Robert	Winchell, George		

**STRAFFORD**

Bemis, Alan	Bickford, David	Cataldo, Sam	Easson, Timothy
Hollinger, Jeffrey	Newton, Clifford	Scott, David	Taylor, Katherine
Twombly, James	Woods, Phyllis		

**SULLIVAN**

Ferland, Brenda	Phinizy, James	Rodeschin, Beverly
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and the majority committee report failed.

Rep. Letourneau moved Inexpedient to Legislature.

Rep. Burling requested a roll call; sufficiently seconded.

The question being adoption of the motion Inexpedient to Legislature.

**YEAS 169 NAYS 159****YEAS 169****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Flanders, Donald
Holbrook, Robert	Laflam, Robert	Lawton, David	Nedeau, Stephen
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

**CARROLL**

Babson, David Jr	Dickinson, Howard	Hatch, Paul	Kenney, Bettie
McConkey, Mark	Morrow, Harry	Mock, Henry	Patten, Betsey
Philbrick, Donald	Stevens, Stanley		

**CHESHIRE**

Dexter, Judson  
Smith, Edwin

Hunt, John

Liebl, George

Royce, H Charles

**COOS**

Brady, Mark  
Theberge, Robert

Guay, Lawrence  
Tholl, John Jr

King, Frederick  
Woodward, David

Stohl, Eric

**GRAFTON**

Alger, John  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Giuda, Robert

Dorsett, Andrew  
Ingretson, Paul

Eaton, Stephanie  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Brundige, Robert  
Christiansen, Lars  
Gibson, John  
Hansen, Ryan  
Hinkle, Peyton  
Kurk, Neal  
McElroy, Henry Jr  
Moran, Edward  
Ober, Russell III  
Souza, Kathleen  
Tahir, Saghir

Allan, Nelson  
Baroody, Benjamin  
Buhlman, David  
Crane, Elenore Casey  
Gorman, Mary  
Harrington, Paul  
Holden, Randolph  
Lawrence, James  
McRae, Karen  
Mosher, William  
Pappas, Marc  
Stepanek, Stephen  
Vaillancourt, Steve

Arnold, Thomas Jr  
Batula, Peter  
Cernota, Albert  
Dionne, Kimberley  
Greenberg, Gary  
Hawkins, Ken  
Hopper, Gary  
Lefebvre, Roland  
Mercer, Robert  
Movsesian, Lori  
Pepino, Leo  
Sullivan, Peter  
Wheeler, James

Artz, Lawrence  
Bouchard, David  
Chabot, Robert  
Elliott, Larry  
Hall, Charles  
Haytayan, Harry Jr  
Jasper, Shawn  
Luebker, Bernard  
Mooney, Maureen  
O'Brien, Lori  
Slocum, Lee  
Sweeney, Cynthia

**MERRIMACK**

Anderson, Eric  
Hess, David  
Leber, William  
Maxfield, Roy  
Soltani, Tony

Dunne, Christopher  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom

Field, William  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Foley, Albert  
Langer, Ray  
Marple, Richard  
Oliver, James

**ROCKINGHAM**

Allen, Mary  
Carson, Sharon  
Doyle, Christopher  
Gilbert, Karl  
Hughes, Daniel  
Johnson, Rogers  
Major, Norman  
Noyes, Richard  
Putnam, Ed II  
Smith, Donald  
Weare, E Albert

Bicknell, Elbert  
Clark, Vivian  
Duffy, James  
Griffin, Mary  
Ingram, Russell  
Kobel, Rudolph  
McKinney, Betsy  
O'Neil, Michael  
Quandt, Matthew  
Stone, Joseph  
Welch, David

Cady, Harriet  
Coes, Betsy  
Fesh, Bob  
Headd, James  
Introne, Robert  
Langley, Jane  
McMahon, Charles  
Packard, Sherman  
Rausch, James  
Varrell, Thomas  
Wiley, Robert

Camm, Kevin  
Cooney, Richard  
Francoeur, Sheila  
Holland, James Jr  
Johnson, Robert  
Letourneau, Robert  
Moore, Benjamin  
Pantelakos, Laura  
Roessner, Kurt  
Waterhouse, Kevin  
Winchell, George

**STRAFFORD**

Bemis, Alan  
Hollinger, Jeffrey  
Taylor, Katherine

Bickford, David  
Musler, George  
Twombly, James

Cataldo, Sam  
Newton, Clifford  
Woods, Phyllis

Easson, Timothy  
Scott, David

**SULLIVAN**

Ferland, Brenda

Phinizy, James

Rodeschin, Beverly

**NAYS 159****BELKNAP**

Boye, Laurie

Clark, Charles

Pilliod, James

**CARROLL**

Brown, Carolyn	Derby, Mark	Olimpio, J Lisbeth
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**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Laurent, John	Meador, David	Mitchell, McKim
Parkhurst, Henry	Richardson, Barbara	Robertson, Timothy	Slack, Pamela
Tilton, Anna	Webber, Amy	Weed, Charles	

**COOS**

Mears, Edgar	Pratt, Leighton	Richardson, Herbert
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**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dudley, Terri
Hammond, Lee	Naro, Debra	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter	Williams, Burton	

**HILLSBOROUGH**

Balcom, John	Beaton, William	Bergeron, Jean-Guy	Brassard, Paul
Bruno, Pierre	Cail, Kenneth	Carlson, Donald	Carter, Jeffrey
Carter, Mark	Clayton, William	Clemons, Jane	Cote, David
Cote, Peter	Coughlin, Pamela	Craig, James	Dokmo, Cynthia
Drisko, Richard	Emerton, Larry	Fletcher, Richard	Gargas, Carolyn
Gonzalez, Carlos	Graham, John	Haley, Robert	Hallyburton, Margaret
Infantine, William	Irwin, Anne-Marie	Jean, Claudette	Kopka, Angeline
LaFlamme, Paul	Lasky, Bette	Leach, Edward	Malloy, Chris
Martin, Mary Ellen	McHugh, Claire	Messier, Irene	Michon, Stephen
Palangas, Eric	Pappas, Christopher	Pilote, Maurice	Price, Pamela
Reeves, Sandra	Ross, Lawrence	Scanlon, Michael	Schulze, Joan
Spieß, Paul	Sullivan, Francis	Wheeler, Robert	

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	French, Barbara
Gile, Mary	Hager, Elizabeth	Hamm, Christine	Jacobson, Alf
Kenison, Leon	Osborne, Jessie	Perkins, Randy	Potter, Frances
Reardon, Tara	Rush, Deanna	Wallner, Mary Jane	

**ROCKINGHAM**

Belanger, Ronald	Bishop, Franklin	Blanchard, MaryAnn	Bridle, Russell
Casey, Kimberley	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Dumaine, Dudley	Flanders, John Sr	Gillick, Thomas	Gleason, John
Gould, Kenneth	Hamel, Albert	Itse, Daniel	Katsakiores, George
Katsakiores, Phyllis	Kelley, Jane	Langone, John	Manning, John
McEachern, Paul	Pitts, Jacqueline	Robertson, Carl	Shultis, Elizabeth
Splaine, James	Tufts, J Arthur	Vallone, Matthew	Weldy, Norman Jr
Weyler, Kenneth			

**STRAFFORD**

Berube, Roger	Brown, Julie	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Grassie, Anne	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Flint, Gordon Sr	Jones, Constance	Leone, Richard	

and the motion of Inexpedient to Legislate was adopted.

**SB 159-FN**, relative to milfoil and other exotic aquatic weeds. **INEXPEDIENT TO LEGISLATE** Rep. Robert J. Letourneau for Transportation: This bill creates an access water permit fee to fund programs relative to milfoil and other exotic weeds. The bill creates a myriad of splits to the boat registration fees, thus creating a number of special accounts. The amount of revenue that will be created by this legislation is unknown and cannot be determined by the state agencies involved. Testimony did not reveal how this will resolve the milfoil issue, nor where there are any specific programs mentioned – only that more revenue is needed. This House passed legislation last session that added fees to the boat registration and directed those dollars into the milfoil problem. The Director of Marine Patrol has told us that he believes that this issue is best resolved on a regional basis rather than by individual states. The U.S. Fish and Wildlife Service, through the International Association of Fish and Wildlife agencies, has awarded New Hampshire a grant to study this issue on a regional basis. When this three-year grant is concluded, the four regions will get together and pool their resources to formulate a plan or model for all states to follow. We believe that this bill is not needed at this time, and we will be addressing this issue in the future with a better understanding of the problem. Vote 11-3.

Rep. Hinkle spoke against and yielded to questions.

Reps. Royce and Packard spoke in favor.

On a division vote, 263 members having voted in the affirmative and 65 in the negative, the committee report was adopted.

**HB 760-FN-A**, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John M. Gibson for the Majority of Ways and Means: Any increase in the New Hampshire tobacco tax will create a noticeable effect on retailers along the border region. This could create a downward ripple effect on several important sources of revenue like the business enterprise tax, business profits tax, rooms and meals tax, gasoline tax, and the tax on beer and liquor. Reducing the rate of those who smoke in our state is a laudable goal. Any state-sponsored program to reduce the rate of smoking in New Hampshire should be prioritized in the budget of the Department of Health and Human Services during the budget process. This tax increase targets low- and middle-income smokers. Raising the tobacco tax will not guarantee a reduction of smokers in the state. This legislation also creates another dedicated fund in the State Budget. For the above-mentioned reasons, the majority of the committee voted Inexpedient to Legislate. Vote 13-6.

Rep. Susan W. Almy for the Minority of Ways and Means: New Hampshire has, by far, the lowest tobacco tax in the region. It also has among the highest smoking rates in the country, yet it spends less than any other state per capita on prevention and cessation. For the last few years, as the State contributed \$4.6 million annually toward these activities, the number of teen smokers dropped by 25-50%. The minority believes it is important to continue these tobacco prevention efforts and to increase them to the levels recommended by the national epidemiology center (CDC). Under the current budget, the State has invested \$1.6 million toward smoking reduction, but these dollars come from grants that will disappear due to the loss of matching funds. Our current low tobacco tax encourages youth smoking. By raising the tobacco tax, we could do a great deal to discourage childhood smoking and subsequent adult addiction. More teen smokers today means vastly higher health care costs, as well as productivity losses for the State's government, business and citizens in years to come. The new Commissioner of Revenue testified in March 2003 that a \$1.52 tobacco tax would conservatively generate \$102 million per year. By voting for this bill, the Legislature could restore the \$20 million in cuts to the Health and Human Services budget. By voting against it, we are increasing the burden for social welfare on our cities and towns, our seniors and disabled. We believe it is important to dedicate part of the revenues to reversing these cuts before sending the remainder (about \$80 million for 2005) to the Education Trust Fund to be distributed through legislative action for the reduction of escalating local property taxes.

#### LAI D ON THE TABLE

Rep. Spiess moved that **HB 760-FN-A**, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor, be laid on the table.

On a division vote, 241 members having voted in the affirmative and 87 in the negative, the motion was adopted.



**REGULAR CALENDAR (CONT'D.)**

**HB 1251-FN-A**, establishing an income tax. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. Giuda for the Majority of Ways and Means: This bill, establishing an income tax, was introduced by its sponsor as a courtesy to a constituent. The sponsor then asked that the committee move ITL on this legislation. In light of the sponsor's request, the strong disapproval of an income tax evidenced by the people of New Hampshire in the last election, and the fact that many of the questions regarding implementation posed by the committee went unanswered, the committee delivered a vote of inexpedient to legislate 15-4. Vote 15-4.

Rep. Susan W. Almy for the Minority of Ways and Means: The original author of this bill wanted to provide a way to fund the basic state services that our legislature has promised to NH businesses, communities and individuals. Over a decade ago Gov. Merrill's commission declared that we had a structural deficit – the cost of our mandates and basic needs was growing faster than our revenues, because our revenues were, and are, insufficiently tied to the real growth of our economy. The Business Enterprise Tax on wages was enacted at that time, but since then both mandates and the cost of providing basic services have increased, and our property taxes in particular are being increasingly burdened. The minority presented an amendment to do a study which would quantify the current structural gap, with the help of existing studies from NH economists. The legislature could then decide how it wished to act on this critical issue.

Reps. Peter Allen, Diamond and Almy spoke against.

Rep. Giuda spoke in favor.

Rep. Kennedy requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 318 NAYS 10****YEAS 318****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Thomas, John

Allen, Janet  
Flanders, Donald  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Holbrook, Robert  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Laflam, Robert  
Russell, David

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry  
Stevens, Stanley

Brown, Carolyn  
Kenney, Bettie  
Olimpio, J Lisbeth

Derby, Mark  
McConkey, Mark  
Patten, Betsey

Dickinson, Howard  
Morrow, Harry  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Liebl, George  
Royce, H Charles  
Webber, Amy

Dexter, Judson  
Fish, Douglas  
Mitchell, McKim  
Slack, Pamela

Dunn, James  
Hunt, John  
Parkhurst, Henry  
Smith, Edwin

Eaton, Daniel  
Laurent, John  
Richardson, Barbara  
Tilton, Anna

**COOS**

Brady, Mark  
Pratt, Leighton  
Tholl, John Jr

Guay, Lawrence  
Richardson, Herbert  
Woodward, David

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie  
Sokol, Hilda

Alger, John  
Bleyler, Ruth  
Dudley, Terri  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Cooney, Mary  
Eaton, Stephanie  
Hammond, Lee  
Nordgren, Sharon  
Sorg, Gregory

Barker, Robert  
Densmore, Edward  
Gilman, G Michael  
Ingbretson, Paul  
Scovner, Nancy  
Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Balcom, John	Baroody, Benjamin	Batula, Peter
Beaton, William	Bergeron, Jean-Guy	Bouchard, David	Brassard, Paul
Brundige, Robert	Bruno, Pierre	Buhman, David	Cail, Kenneth
Carlson, Donald	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christiansen, Lars	Clayton, William	Clemons, Jane
Cote, David	Cote, Peter	Coughlin, Pamela	Craig, James
Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley	Dokmo, Cynthia
Drisko, Richard	Elliott, Larry	Emerton, Larry	Fletcher, Richard
Gargas, Carolyn	Gibson, John	Gonzalez, Carlos	Gorman, Mary
Graham, John	Greenberg, Gary	Haley, Robert	Hall, Charles
Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul	Hawkins, Ken
Haytayan, Harry Jr	Hinkle, Peyton	Holden, Randolph	Hopper, Gary
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette
Kopka, Angeline	Kurk, Neal	LaFlamme, Paul	Lasky, Bette
Lawrence, James	Lefebvre, Roland	Luebker, Bernard	Malloy, Chris
Martin, Mary Ellen	McElroy, Henry Jr	McHugh, Claire	McRae, Karen
Mercer, Robert	Messier, Irene	Michon, Stephen	Mooney, Maureen
Moran, Edward	Mosher, William	Movsesian, Lori	O'Brien, Lori
Ober, Russell III	Palangas, Eric	Pappas, Christopher	Pappas, Marc
Pepino, Leo	Pilotte, Maurice	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Scanlon, Michael	Schulze, Joan	Slocum, Lee
Souza, Kathleen	Spiess, Paul	Stepanek, Stephen	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia	Tahir, Saghir	Vaillancourt, Steve
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Davis, Frank	DeJoi, John	DeStefano, Stephen
Dunne, Christopher	Field, William	Foley, Albert	French, Barbara
Gile, Mary	Hager, Elizabeth	Hamm, Christine	Hess, David
Jacobson, Alf	Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen
Langer, Ray	Leber, William	Lockwood, Priscilla	MacKay, James
Marple, Richard	Maxfield, Roy	McCormick, Tom	Nutter, Edward
Oliver, James	Osborne, Jessie	Perkins, Randy	Potter, Frances
Reardon, Tara	Rush, Deanna	Soltani, Tony	Wallner, Mary Jane

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bishop, Franklin
Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet	Camm, Kevin
Carson, Sharon	Casey, Kimberley	Clark, Vivian	Coes, Betsy
Cooney, Richard	Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert
Doyle, Christopher	Duffy, James	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Francoeur, Sheila	Gilbert, Karl	Gillick, Thomas
Gleason, John	Gould, Kenneth	Griffin, Mary	Hamel, Albert
Headd, James	Holland, James Jr	Hughes, Daniel	Ingram, Russell
Introne, Robert	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
Manning, John	McKinney, Betsy	McMahon, Charles	Moore, Benjamin
Noyes, Richard	O'Neil, Michael	Packard, Sherman	Pantelakos, Laura
Pitts, Jacqueline	Putnam, Ed II	Quandt, Matthew	Rausch, James
Robertson, Carl	Roessner, Kurt	Shultis, Elizabeth	Smith, Donald
Splaine, James	Stone, Joseph	Tufts, J Arthur	Vallone, Matthew
Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert	Winchell, George

**STRAFFORD**

Bemis, Alan  
Cataldo, Sam  
Grassie, Anne  
Kaen, Naida  
Schmidt, Peter  
Taylor, Katherine  
Woods, Phyllis

Berube, Roger  
Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Scott, David  
Taylor, Kathleen

Bickford, David  
Dunlap, Patricia  
Hollinger, Jeffrey  
Miller, Joseph  
Smith, Marjorie  
Twombly, James

Campbell, W Packy  
Easson, Timothy  
Johnson, Nancy  
Newton, Clifford  
Snyder, Clair  
Wall, Janet

**SULLIVAN**

Allison, David  
Flint, Gordon Sr

Burling, Peter  
Jones, Constance

Cloutier, John  
Leone, Richard

Ferland, Brenda  
Rodeschin, Beverly

**NAYS 10****BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

Meader, David

Robertson, Timothy

Weed, Charles

**COOS**

None

**GRAFTON**

Diamond, Estelle

**HILLSBOROUGH**

None

**MERRIMACK**

None

**ROCKINGHAM**

McEachern, Paul

**STRAFFORD**

Keans, Sandra

Musler, George

Rous, Emma

**SULLIVAN**

Donovan, Thomas

Phinizz, James

and the majority committee report was adopted.

**BILLS REMOVED FROM CONSENT CALENDAR**

**HB 1268**, relative to bank reserve and lending procedures. **INEXPEDIENT TO LEGISLATE**  
Rep. Paul D. Spiess for Commerce: The intent of this bill as originally drafted, and subsequently amended by the sponsor, is to prohibit banks from making loans unless the deposits of the bank (demand, time and savings) are 100% secured by cash. This would have the practical effect of putting banks out of the lending business, as the only funds available to fund loans would be original capital, surplus or retained earnings and borrowed funds. This would have a catastrophic affect on the credit markets. Banks are required by federal and state law to maintain adequate capital to protect against unanticipated losses, adequate cash reserves to meet the liquidity and transaction needs of its customers, and loan loss reserves to protect against the risks of loss. These reserves are monitored by regulators on a regular basis, and each bank receives a full safety and soundness examination every eighteen months. Vote 12-0.

Rep. Marple spoke against.

Rep. Spiess spoke in favor.

On a division vote, 294 members having voted in the affirmative and 25 in the negative, the committee report was adopted.

**HB 1287**, establishing a study committee to review insurance statutes and rules to assure conformity with the mission statement published by the insurance department. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The stated purpose of this bill is to create a study committee to determine if existing statutes and rules pertaining to insurance are in conformity with the "missions statement" of the insurance department. In public testimony we learned that the "mission statement" is an internally generated document developed by the staff as a result of a "management by objectives" exercise. As such, it has no statutory or official standing. It should be noted that the department could only exercise those powers which the legislature establishes. The committee believes that there is no valid purpose for pursuing this study. Vote 12-0.

Rep. Lars Christiansen spoke against.

Rep. Hunt spoke in favor.

Adopted.

**HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: This bill would establish a committee to study whether to withdraw from corporations their status as legal persons, by means of which they acquire, like natural persons, the benefits and protection of relevant parts of the federal and New Hampshire Bills of Rights. The committee concluded that many of the specific issues raised by the sponsor and supporting witnesses implicated the commerce, contracts and supremacy clauses of the federal constitution that no enactment of the New Hampshire Legislature could affect. Moreover, the direction to which the study sought by the bill appears aimed is towards the theoretical, social and economic underpinnings of the entire capitalist system. This was not considered an appropriate subject for the use of the Legislature's time and resources. Vote 18-0.

### MOTION TO SPECIAL ORDER

Rep. DeJoie moved that **HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons, be made a Special Order for February 5, 2004 in its regular order in the Regular Calendar.

Adopted.

### RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, February 5, 2004. Adopted.

### LATE SESSION

#### Third reading and final passage

**HB 1169**, relative to child support calculations based on one-time or irregular income.

**HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18.

**HB 1414**, establishing a commission to study issues regarding the women's prison facility.

**HB 1334**, relative to retention of records of fish and game law violations by the fish and game department.

**HB 1290**, establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families.

**HB 1397**, relative to youth suicide prevention.

**HB 1154**, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court.

**HB 1378-FN-A**, relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor.

**HR 20**, supporting Taiwan's participation in the World Health Organization.

**HR 23**, urging the President and Congress to amend federal selective service and immigration laws to grant the right of citizenship to all immigrants honorably discharged from United States military service.

**HB 1259**, relative to the medical certification required for a walking disability plate or placard.

**HB 1311-FN**, establishing a committee to study decreasing the insurance premium tax.

**HB 1370**, establishing a committee to study property tax relief.

**HB 1275-FN-A**, relative to the role of the department of health and human services in juvenile proceedings.

**HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases.

**HB 243**, relative to motor vehicle exhaust noise standards.

## RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 12:10 p.m.

## RECESS

(Rep. Rowe in the Chair)

## RESOLUTION

Rep. Souza offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 61, 153, 205, 207, 317, 402, 403, 423, 431, 469 and 519 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF SENATE BILLS

### First, second reading and referral

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school. (Education)

**SB 153**, adopting the nurse licensure compact. (Executive Departments and Administration)

**SB 205-FN**, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire. (Resources, Recreation and Development)

**SB 207**, relative to transactions exempt from the consumer protection act. (Commerce)

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board. (Environment and Agriculture)

**SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system. (Executive Departments and Administration)

**SB 403**, relative to the board of medicine. (Executive Departments and Administration)

**SB 423**, relative to confidentiality and workers' compensation. (Judiciary)

**SB 431**, prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts. (Labor, Industrial and Rehabilitative Services)

**SB 469**, relative to licensing of boiler inspectors. (Executive Departments and Administration)

**SB 519**, establishing a committee to study the establishment of a farm viability program. (Environment and Agriculture)

## RECESS

(Speaker Chandler in the Chair)

Rep. Giuda moved that the House adjourn.

Adopted.

**HOUSE JOURNAL No. 5**

Thursday, February 5, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

In this honorable House, O Lord, the people's representatives lift up to You, Sergeant Randy Scott Rosenberg, a twenty-three year old native of Berlin, New Hampshire who died at the hand of a suicide bomber in Iraq while serving our country and helping the people of Iraq to gain their freedom. We mourn not only for him but also for his wife, Misty, his family and for all who loved him. May his heroic sacrifice be honored by our resolve to serve in thanksgiving for the blessings of freedom that, in a dangerous world, must never be taken for granted.

Please allow our prayers for Sergeant Rosenberg to extend Your protective hand upon all the men and women at home and in far away places who sacrifice daily on behalf of all the citizens of our beloved New Hampshire, and may the decisions rendered here today be worthy of the last full measure of sacrifice offered by those who serve to keep us free. Amen.

Reps. John W. Flanders, Sr. and Peter Burling led the Pledge of Allegiance.

The National Anthem was sung by Jon Berdard, Jon Bibaud, Sarah Cadieux and Sarah Wilmott, students at Concord High School.

**LEAVES OF ABSENCE**

Reps. Callaghan, Corbin, David Cote, Dionne, Donovan, James Dunn, Flanagan, Goyette, Guay, Hutchinson, Lionel Johnson, Robert L'Heureux, Luebker, John Manning, Milligan, Naro, Irene Pratt, Reed, Scamman, Seldin and Snyder, the day, illness.

Reps. Bleyler, David Bouchard, Dewhirst, Flayhan, Fletcher, Flint, Hawkins, Hess, Introne, Robert Laflam, McCann, McMahon, Moran, Poulin, Priestley, Reeves, Rous, Donald Smith and Paul Smith, the day, important business.

Reps. Buhlman, Coughlin and Messier, the day, illness in the family.

**INTRODUCTION OF GUESTS**

Rebecca Hancock, guest of Rep. Claire Clarke. Leonard Mead, Kathy Getchell, Brian McGrath and Richard Evans, guests of Rep. Scott. Christie Hollinger, wife of Rep. Hollinger. Members of the Greater Portsmouth Chamber of Commerce, guests of the Portsmouth delegation. Sue Suter, guest of Rep. Norelli. Tammy Jean Akeley, guest of Rep. Edwin Smith. Priscilla and Gilbert Bibaud, parents of singer, Jon Bibaud, guests of the Concord delegation. Brandy McLean, guest of Rep. Dodge. Ashleigh O'Brien, guest of Reps. O'Brien and Elliott.

**SPECIAL GUESTS**

Members of the Manchester West High School National Honor Society with their advisor, James McGeough, guests of the House. They were recipients of the 2003 Outstanding Service Project Award given at the National Honor Society's National Convention.

**COMMITTEE REPORTS****CONSENT CALENDAR**

Rep. Giuda moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 1342-FN-A-L**, establishing a new system of coinage for the state, removed by Rep. McElroy.

**HB 1281**, relative to the determination of the amount of taxes to be raised to support a cooperative school district, removed by Rep. Vivian Clark.

Consent Calendar adopted.

**HB 1235-FN**, establishing a criminal penalty for throwing an incendiary object from a motor vehicle. **INEXPEDIENT TO LEGISLATE**

Rep. E. Albert Weare for Criminal Justice and Public Safety: In discussion with the sponsor of this bill, it became clear that the purpose of this bill is already covered by law. The perceived problem is a matter of enforcement, not a matter of changing the law. In addition, the definition of "incendiary object" would become almost impossible to defend legally. Vote 13-0.

**HB 1337-FN**, prohibiting any person convicted of an offense against a child from purchasing a residence or entering a rental or lease agreement for rental property in the vicinity of a school. **INEXPEDIENT TO LEGISLATE**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill has a very laudable intent, one that all on the committee agreed with. However no matter how noble the intent may be, the committee must also look to the constitutional rights of all, even the worst of offenders. This bill was just too vague and we believed, constitutionally challengeable. The testimony was overwhelmingly against this approach to constrain or otherwise restrict the sexual offender of children to enter into an agreement to rent, lease, and even own property 2000 feet from specific places, keeping in mind that some offenders could, and do, use parks, playgrounds and school zones to seek access to a possible victim. The plain fact of the matter is that with this bill, if it were carried to its logical conclusion, in any given town, considering the location of the numerous schools, playgrounds, home schools, day care centers and the like that are strewn all over the area of a town would in effect be "zoning out" such people. (Unconstitutional?) Iowa's Supreme Court struck down a similar law. This bill would also leave open, for civil suits, the managers of properties and realtors who do not have access to the records of such offenders and who in good faith rent, lease and sell property to them. Finally, this bill would not just pertain to the sexual offender of children but also anyone who may have abused a child in some other way as well and whom police departments have no right to keep a register of. Vote 17-0.

**HCR 23**, on non-citizens during times of war. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: This resolution has no statutory teeth behind it. Other than the sponsor of the bill, there was no other testimony. The committee feels that all persons should be treated fairly and we believe this is indeed the rule. The committee, by its vote, supports those organizations whose role is to protect the citizens during difficult times. Vote 13-0.

**HJR 24**, concerning misdemeanors and probable cause. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The sponsor of the bill failed to appear at the hearing and did not contact the committee to request any other consideration. The ramifications of this bill, although not having the effect of law, are far-reaching and would interfere with well-recognized principles of search and seizure already decided by the United States Supreme Court. Vote 13-0.

**HB 1232-FN**, allowing a disabled person to enroll in a class free of charge at any institution within the university system of New Hampshire, provided a seat is available in the class. **REFER FOR INTERIM STUDY**

Rep. John R.M. Alger for Education: The committee thought well of an amendment to study the issue of defining when and if people of specific disabilities should be offered free enrollment in college for the purpose of enhancing the ability to obtain productive work. However, an amendment to that effect did not correctly state the issue and need as described above and so a vote of interim study was taken instead. Vote 17-1.

**HB 1297**, relative to credit for American sign language and transliteration as a foreign language. **INEXPEDIENT TO LEGISLATE**

Rep. John R.M. Alger for Education: This bill would require credit for American Sign Language when or if it is offered as a foreign language. According to the prime sponsor it is not now needed, because the Department of Education has placed the purpose of the bill into rules under Ed 306.43 World Language Program qualifying American sign language as a world language for the purpose of meeting a high school world language graduation requirement. Vote 17-0.

**HB 1345-FN-L**, establishing an education scholarship fund. **REFER FOR INTERIM STUDY**

Rep. Barbara Hagan for Education: The committee overwhelmingly agreed that technical errors in the bill prevented it from moving forward at this time. The committee will work to make the bill a strong piece of legislation that can be put forward in a future session. Vote 16-2.

**HB 1227**, relative to land assessed for current use which is taken by eminent domain. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald R. Philbrick for Environment and Agriculture: The purpose is to correct a situation which could occur if land is taken by eminent domain or any other type of government taking as the law is written. If you held land under current use and after the government taking, you were left with less than 10 acres, you would have to remove the land from current use. This bill allows the land to remain in current use. The amendment further clarifies the intent of the sponsor. There was no opposition to this bill. Vote 14-0.

**Amendment (0118h)**

Amend RSA 79-A:7, VI(a) as inserted by section I of the bill by replacing it with the following:

(a) Land under current use is taken by eminent domain or any other type of governmental taking which would cause the use change penalty to be invoked because, by reason of an actual physical change or by reason of size, the site no longer conforms to criteria established by the board under RSA 79-A:4, I. *Such remaining land, regardless of size, may continue in current use until a subsequent change in use of the remaining land occurs.*

**HB 1229**, establishing a commission to study bioaccumulative toxic chemicals. **REFER FOR INTERIM STUDY**

Rep. Peter H. Allen for Environment and Agriculture: Because the Environment and Agriculture Committee has long experience related to bioaccumulative toxic chemicals and questions needed resolution, the committee voted to recommend the bill for Interim Study. Vote 13-0.

**HB 1160**, relative to the membership of the board of professional geologists. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: The bill in its original form would have added the state geologist to the board of geologists as an "ex officio" member. The committee agreed that the board would benefit from the state geologist's expertise and insight. Our amended bill makes the state geologist a full voting member. In addition, a section of the bill that would have cut geologist education requirements in half was removed. Vote 14-0.

**Amendment (0177h)**

Amend the bill by replacing section I with the following:

I State Geologist. Amend RSA 21-O:12, II to read as follows:

II. Geology shall be under the direction of the state geologist, who shall be the director of the New Hampshire geological survey. The geological survey shall collect data and perform research on the land, mineral, and water resources of the state, and disseminate the findings of such research to the public through maps, reports, and other publications. The state geologist shall: consult with the commissioner of the department of resources and economic development relative to the issuance of mining permits under RSA 12-E; assist the directors of the divisions of water and waste management as necessary; and perform such other duties as may be assigned by the commissioner. The state geologist and all members of the New Hampshire geological survey shall be staff members of the commissioner's office. The state geologist shall advise the department, and all other branches of state and local government, concerning the geologic character of the state and its implications for both economic and scientific needs in conjunction with all existing and future environmental factors relating to the geology of the state. The state geologist shall maintain liaison with federal and other state geologic agencies and with the state university. *The state geologist shall also serve as a voting member of the board of professional geologists.*

Amend the bill by deleting section 3 and renumbering the original section 4 to read as 3.

**HB 1174**, relative to acceptance of electronic records by government agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Nelson S. Allan for Executive Departments and Administration: This bill reiterates the desire to use electronic media to transfer records between government agencies and others. The bill fails to provide clarity on this complex issue and does not answer difficult questions of who, when, where or how to implement this process. Vote 16-0.

**HB 1222**, establishing a commission and authorizing a portrait of Vesta Roy, New Hampshire's first woman governor. **INEXPEDIENT TO LEGISLATE**



Rep. Anne-Marie Irwin for Executive Departments and Administration: This bill would establish a commission to authorize a portrait of Vesta Roy, the first woman governor of New Hampshire. The committee decided this bill was not needed. Presently, all portraits are arranged and funded outside the legislative process, and this portrait could be arranged the same way. Vote 14-2.

**HB 1248-FN**, adding a licensed nursing assistant member to the state board of nursing. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilote for Executive Departments and Administration: This bill provides for the selection of a medication licensed nursing assistant as one of the two licensed nursing assistants who serve on the state board of nursing. The committee agreed on the desirability of providing representation of this rapidly growing specialty of nursing assistants on the board without mandating it or expanding the membership of the board. Vote 15-1.

**Amendment (0261h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the state board of nursing.

Amend the bill by replacing section 1 with the following:

1 Board of Nursing; Additional Member. Amend RSA 326-B:3, I to read as follows:

I. The board of nursing shall be composed of 11 members to be appointed by the governor with the consent of the council. Suggestions for appointment may be made to the governor by any interested individual, association or entity. The members of the board shall include 5 registered nurses, one of whom shall be an advanced registered nurse practitioner, 2 licensed practical nurses, 2 licensed nursing assistants, *one of whom shall be a medication licensed nursing assistant, if possible*, and 2 representative members of the public. The terms of members shall be staggered as determined by the governor and council. All terms shall be for 3 years, and no member of the board shall be appointed to more than 3 consecutive terms.

**AMENDED ANALYSIS**

This bill requires that a medication licensed nursing assistant be appointed to the board of nursing whenever possible.

**HB 1324-FN**, authorizing the position of clerk of the board of manufactured housing. **OUGHT TO PASS**

Rep. Maurice L. Pilote for Executive Departments and Administration: This bill re-grades the position of part-time typist/secretarial to the position of part-time clerk of the Board of Manufactured Housing at labor grade 27. The Board of Manufactured Housing is an effective forum for mediation of tenant/owner disputes rather than requiring resolution through litigation. Managing the increased case load coming before the board, its level of service and attention to inquiries and requests requires additional reliance on the services of the part-time secretary and justifies designation of the position as part-time clerk of the Board of Manufactured Housing. Vote 12-3. Referred to Finance.

**HB 1338**, establishing Patriots Day in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill would have made December 13, "Patriots Day." The state already has 14 different observances. In addition, there was concern that it would create confusion with Patriots Day in Massachusetts. With each day we add as an observance, we lessen the importance of each individual day. Vote 15-0.

**HB 1389**, relative to appearances and representation in courts. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Craig for Judiciary: This bill would give "the inherent and unconditional right" to anyone to represent another person in any "court, tribunal, or administrative body provided that that person swear an oath as provided in the bill". The committee felt that the right to represent oneself and the right to be represented by another person (as long as it is not done on a regular basis) already exists and that this bill is therefore unnecessary and may lead to unintended consequences. Vote 8-3.

**HB 1336**, relative to the procedures for the legislative ethics committee. **OUGHT TO PASS WITH AMENDMENT**

Rep. James R. MacKay for Legislative Administration: The committee on Ethics requested three changes: 1) The Majority of the Committee requested that appointments to the Committee shall be

made by December 31st prior to the first legislation biennial session. This is to guarantee that the Committee will be immediately able to act on any complaints filed. 2) The Majority of the committee requested authority to initiate a complaint on its own motion against any individual who has not filed their financial disclosure form. 3) In addition, the Committee requested authority to bring a complaint on its own motion if it determines that a complaint "is frivolous, scurrilous, or retaliatory in nature." In addition, the committee could vote to discharge such a "complaint without the benefit of a meeting or further proceeding." The Committee on Legislative Administration after careful consideration voted unanimously to support HB 1336 as amended. Vote 13-0.

#### **Amendment (0193h)**

Amend the bill by replacing section 2 with the following:

2 Ethics Complaints; Procedure. Amend RSA 14-B:4, I to read as follows:

I. Each complaint shall be submitted in writing and signed under oath by the complainant. The sworn complaint shall be filed confidentially with the committee and shall contain the name and address of the complainant. The legislator, officer, or employee of the legislature complained against shall be furnished with a copy of the complaint and a copy shall be sent to each member of the committee for review. ~~[The committee shall conduct an initial review of each complaint promptly after receipt to ascertain whether the committee has jurisdiction to consider the complaint or whether the complaint is without merit or is unfounded.]~~ *The committee shall initiate a complaint on its own motion against any individual the committee determines has not complied with the provisions of RSA 14-B:7. The committee shall promptly examine each sworn complaint and:*

*(a) If by a unanimous affirmative vote it determines that a complaint is frivolous, scurrilous, or retaliatory in nature, the committee may discharge the complaint without the benefit of a meeting or further proceeding. The committee shall notify the respondent and complainant in writing of its action.*

*(b) For any complaint not discharged, the committee shall conduct an initial review to ascertain whether the committee has jurisdiction to consider the complaint or whether the complaint is without merit or is unfounded.*

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect upon its passage.

#### **HB 1403, extending the reporting dates of certain study committees. OUGHT TO PASS WITH AMENDMENT**

Rep. Sheila T. Francoeur for Legislative Administration: This bill extends the reporting date of eleven study committees or commissions requiring more time to complete their work. The amendment adds one commission which was not in the original bill and also changes the reporting date of one commission. Vote 12-0.

#### **Amendment (0256h)**

Amend the bill by replacing section 10 with the following:

10 Efficiency Commission. Amend 2003, 1:5, II to read as follows:

II. The commission shall report the final results of its study, including its findings, recommendations, *suggestions for implementation of changes*, and any proposed legislation, to the speaker of the house of representatives, the senate president, the governor, the house clerk, the senate clerk, and the state library no later than December ~~[1, 2003]~~ *31, 2005*.

Amend the bill by inserting after section 10 the following and renumbering the original section 11 to read as 12:

11 Recommendations of the New Hampshire Estuaries Project Management Plan. Amend 2003, 236:5 to read as follows:

236:5 Report. The commission shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, ~~[2003]~~ *2005*.

#### **HB 1158, relative to a necessary quorum in town elections for motions to reconsider after voting polls have been open a period of more than 4 hours. INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: The committee understands the issue that is raised by this bill and also understands the problems that exist at some, if not all, town meetings at one time or another – people going home after a vote has been taken, having the re-

minder of people who stay ask for reconsideration and having the outcome of the vote changed. This bill was an attempt to prohibit a motion of reconsideration after the polls were open for a period longer than 4 hours. The moderator at the traditional town meeting has been given extensive powers but also extensive responsibilities to inform the towns people of the different scenarios that may arise during the town meeting to make the town meeting fair and just. RSA 40:10 provides for a motion to restrict reconsideration of any previous vote at the town meeting and also mandates that if there is a vote to reconsider a previous vote, then that vote would not take place at that meeting, but would occur at least 7 days after the date on which the motion to reconsider was approved. The majority of the committee feels that the motion to restrict reconsideration is working and there is no need to further complicate that motion. Vote 9-4.

**HB 1199-FN-L**, relative to water connection fees. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill centers on the Copple Crown Village District in New Durham. The Village District charged \$3,500 per hook-up originally, then increased the fee to \$6,000 per hookup in 2002 and doubled the fee to \$12,000 in 2003. The sponsor of the bill is trying to find a solution to this substantial fee increase in the statutes by restricting the hookup fee of no more than \$100 if no additional infrastructure were necessary. The committee examined RSA 38:28 which states that the amount of water rates may be based upon the consumption of water on the hooked up premises, the number of persons served or upon some other equitable basis. There was opposition from the New Hampshire Water Works Association. If this restriction was placed upon municipal entities, which includes village districts, it could prevent recovering costs not associated with infrastructure, bring the long term viability of a municipal water system and protection of the water source into question and is too inflexible. Based upon the last criteria of "equitable basis" the committee agreed that the right venue for this perceived "arbitrary and capricious" action was in the civil court system, not the legislative venue. Vote 12-1.

**HB 1215**, relative to seasonal directional signs. **INEXPEDIENT TO LEGISLATE**

Rep. Candace C.W. Bouchard for Public Works and Highways: This legislation attempted to amend RSA 236:70 concerning blue directional highway signs by allowing seasonal businesses to display their signs for twelve months. Currently businesses that are seasonal are required to cover their signs during the off season. The majority of the Committee agreed with the sponsor that the current practice of businesses covering their signs with bags is unsightly. However, the Committee also heard testimony from DOT that these are not universally known seasonal symbols, nor are the blue signs large enough to display both symbols and language. DOT through rules is currently phasing out the requirement businesses cover their seasonal blue sign with bags. The bag policy is being replaced with uniform blue metal covers. The business will still be responsible for both the cost of covering the sign and placing the cover over their blue sign. The Committee encourages DOT to quickly move forward with this change and will monitor the departments progress. Vote 13-2.

**HB 1325-FN-A**, relative to the E-Z Pass toll system. **OUGHT TO PASS WITH AMENDMENT**

Rep. William E. Leber for Public Works and Highways: This bill as amended provided the Commissioner of Transportation with authority to approve the use of the E-Z Pass system for the payment of non-toll based financial obligations voluntarily incurred by an account holder. The bill provides limits of the use and outlines the process for its use. The Committee spent a great deal of time in developing confidentiality of records to protect personal information and prohibit its misuse, which is in Section 2 of the bill. The Committee found that the additional uses of the E-Z Pass would provide additional revenue for the Turnpike Fund and will lighten the administrative cost of the E-Z Pass system as well as provide the holder with more convenience in travel and personal needs. Vote 15-0.

**Amendment (0250h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to additional uses of the E-Z Pass system.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Additional Uses of E-Z Pass System. Amend RSA 237 by inserting after section 16-f the following new section:

237:16-g Additional Uses of E-Z Pass System. The commissioner may approve the use of the E-Z Pass system for the payment of non-toll based financial obligations voluntarily incurred by an account holder, provided that:

I. The financial obligation has been incurred for a purpose approved by the department pursuant to RSA 237:16-d, or the Interagency Group pursuant to procedures adopted in accordance with RSA 237:16-c;

II. The business entity to be paid through the system has entered into a written agreement with the department, or another member of the Interagency Group, agreeing to be bound by:

(a) All of the practices, procedures, and policies of the department or the Interagency Group;

(b) The requirements for confidentiality of information regarding the vehicle, the vehicle owner, and vehicle occupants under RSA 237:16-e;

(c) All applicable federal and state laws, regulations, and rules regulating the consumer credit transaction between the business entity and the account holder; and

(d) A process for the resolution of disputed charges with account holders, which includes an agreement to hold the department and its agents harmless for the payment of any unpaid financial obligation to the business entity incurred by the account holder through the E-Z Pass system.

III. The account holder has, as a result of signing a written account holder agreement prior to incurring charges on the account:

(a) Agreed to be liable for payment of such obligations in accordance with the terms of the agreement;

(b) Been provided with notice of all current policies regarding the sharing of information regarding the account and transactions incurred through the E-Z Pass system; and

(c) Been provided with notice of procedures available to resolve disputes arising from transactions incurred through the E-Z Pass system.

IV. The department may establish reasonable fees to be charged to account holders and business entities participating in this program, and to recover costs of administration, enforcement, and improvement of the E-Z Pass system. Such fees shall be deposited in the turnpike fund.

2 Confidentiality of Records. RSA 237:16-e is repealed and reenacted to read as follows:

237:16-e Confidentiality of Records. Notwithstanding RSA 91-A or any other provision of law, all information received by the department that could serve to identify vehicles, vehicle owners, vehicle occupants, or account holders in any electronic toll collection system in use in this state shall be for the exclusive use of the department for the sole purpose of administering the electronic toll collection system, and shall not be open to any other organization or person, nor be used in any court in any action or proceeding, unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this subdivision. The department may make such information available to another organization or person in the course of its administrative duties, only on the condition that the organization or person receiving such information is subject to the limitations set forth in this section. For the purposes of this section, administration or administrative duties shall not include marketing, soliciting existing account holders to participate in additional services, taking polls, or engaging in other similar activities for any purpose.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill allows the commissioner of transportation to approve the use of E-Z Pass toll accounts for payment of non-toll obligations voluntarily incurred by E-Z Pass account holders and to establish certain fees for the administration of the E-Z Pass system.

This bill also limits the uses of electronic toll system information.

**HB 1363**, establishing a policy for naming state highways, bridges, and buildings. **OUGHT TO PASS**

Rep. John R. Cloutier for Public Works and Highways: This bill would establish certain criteria for naming a state highway, bridge, or building after a person or organization. Among other provisions, a person after whom a state highway, bridge, or building is named should no longer hold an elected or appointed state office. Also, that the person, or organization after which a highway, bridge, or building is named shall have made a positive contribution to its local community, the state and/or nation. Finally, that the cost of design, construction, maintenance and installation of any signs or markers shall not be charged to the state unless the highway, bridge, or building is named after a former elected, or appointed state official. Vote 13-0.

**HB 1141**, relative to dioxin emissions reduction and medical waste incinerators. **OUGHT TO PASS**  
Rep. Roy D. Maxfield for Science, Technology and Energy: This bill prohibits construction of new Medical waste incinerators and the operation of all existing medical waste incinerators after January 1, 2014. The committee learned that many of these facilities are shutting down voluntarily. Newer technologies involving steam sterilization systems like the new proposed facility in Manchester will process most medical waste in the future. The Department of Environmental Services commissioner and the environmental affairs coordinator for the NH Hospital Association support this legislation. Vote 11-0.

**HB 1399-FN-A**, establishing the telecommunications planning and development fund. **OUGHT TO PASS**

Rep. John H. Thomas for Science, Technology and Energy: This bill allows monies deposited in the telecommunications development fund to be non-lapsing in order to continue on-going projects established by the Department of Resources and Economic Development (DRED). The bill also allows DRED to accept donations, grants and gifts for specific use on those projects. There will be no fiscal impact on county and local revenues or expenditures. Vote 11-0.  
Referred to Finance.

**HJR 20**, supporting President Bush's hydrogen fuel initiative. **INEXPEDIENT TO LEGISLATE**  
Rep. John H. Thomas for Science, Technology and Energy: The committee felt that due to the lack of support from the sponsor, and the way the resolution was presented, further action was not warranted. Vote 11-0.

**HJR 21**, urging New Hampshire businesses to consider alternative fuel options to oil. **INEXPEDIENT TO LEGISLATE**

Rep. John H. Thomas for Science, Technology and Energy: The committee felt that due to the lack of support from the sponsor and the way the resolution was presented, further action was not warranted. Vote 11-0.

**HB 1184**, requiring all vehicles to be equipped with mud flaps or spray or splash guards. **INEXPEDIENT TO LEGISLATE**

Rep. Lawrence A. Artz for Transportation: This bill is unnecessary. This legislation would require vehicle owners to install mud flaps, or splash guards to a motor vehicle not originally equipped with them. For starters, there may be an Article 28-a issue in terms of applicability of this bill to municipally-owned vehicles, which would have to comply with this legislation. Municipalities would have to purchase these after-market mud flaps and guards and pay someone to install them on the vehicles. Vehicle safety equipment is under the control of Federal Motor Vehicle Safety Standards. If we start to mandate special equipment on motor vehicles, or if we mandate that vehicles be manufactured with New Hampshire-specific equipment, this will disrupt interstate commerce on the sale of new motor vehicles. Vote 11-0.

**HB 1280-FN**, establishing limited driving privileges special licenses. **INEXPEDIENT TO LEGISLATE**

Rep. Lawrence A. Artz for Transportation: The prime sponsor of this bill failed to show up for the hearing and therefore, we had no supporting testimony. This bill will set a dangerous precedent. This will open up the door year after year to expand this legislation to include persons convicted of DWI, and then for reckless driving. Then the next step would be to expand the scope of the law beyond the limitation of going to and from work to driving to doctor's appointments, gas stations, grocery stores and the list goes on and on. Additionally, this legislation will be difficult to enforce. The loss of a driver's license is the single most effective deterrent – more effective than jail to dangerous drivers. If we pass this bill, we would undermine this deterrent. The reason why people lose their driver's license is because they pose a danger on the road – not only to themselves, but also to others that share the road. This bill gives the Director of Motor Vehicles too much discretion to decide who gets a limited license. This will open up a big can of worms. The Director under administrative rules already has mechanisms in place to address certain privilege licensing. Vote 11-0.

**HB 1132-L**, establishing a committee to study allowing the operation of slot machines and keno in restaurants and establishments serving liquor. **INEXPEDIENT TO LEGISLATE**

Rep. Lee M. Hammond for Ways and Means: The unanimous feeling of the Ways and Means committee is that this issue has been explored and discussed at length during previous sessions; nothing would be accomplished by further study at this time. Vote 14-0.

**HB 1203-FN-A**, establishing a research and development tax credit against the business profits tax. **REFER FOR INTERIM STUDY**

Rep. Kurt J. Roessner for Ways and Means: This bill would establish a research and development tax credit of fifteen percent of qualified manufacturing and development expenditures. The committee needs to further examine the history of previous tax credits and the costs and benefits of such a program. Vote 14-0.

**HB 1254-FN**, granting certain disabled veterans an exemption from state education property taxes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Susan W. Almy for Ways and Means: The original bill was folded into a study committee. With the consent of the sponsor, a non-germane amendment was added in a public hearing. The amendment simply corrects the dedicated fund list after two bills (SB 69 and HB 368) were passed last year. The repeal is of a program which no longer exists as a separate entity. Vote 13-0.

#### Amendment (0173h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; State Treasurer; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (227) the following new subparagraph:

(228) Fees deposited in the postsecondary education vocational school licensing fund under RSA 188-D:25.

2 State Treasurer; Application of Receipts. Amend RSA 6:12, I(b) (140) to read as follows:

(140) Moneys deposited in the ~~[postsecondary education scholarship loan fund]~~ *forgivable loan fund in the workforce incentive program* under RSA ~~[188-D:18]~~ *188-D:18-f*.

3 Repeal. RSA 6:12, I(b) (176), relative to moneys deposited in the nursing leveraged scholarship loan fund, is repealed.

4 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill adds the postsecondary education vocational school licensing fund to the list of dedicated funds in RSA 6:12 and amends the language in RSA 6:12 to reflect the new forgivable loan fund in the workforce incentive program.

**HB 1303-FN**, creating a charity bingo and lucky 7 ticket review and advisory commission and establishing a multi-hall linked bingo pilot program. **INEXPEDIENT TO LEGISLATE**

Rep. Daniel M. Hughes for Ways and Means: The proposed advisory commission would be redundant in that the existing Sweepstakes Commission performs the same functions that are proposed in this bill. The bill also calls for a pilot program for a multi-hall computer linked bingo program. In the past session the house defeated a similar multi-hall computer generated Keno games. The attorney general has opposed the expansion of gambling and stated that expanded gambling would increase the state's exposure to criminal activities and compound the financial difficulties of many of our citizens and create other social problems. Vote 14-0.

#### RECONSIDERATION

Having voted with the prevailing side, Rep. Peter Sullivan moved that the House reconsider its action whereby it found **HB 266**, requiring youth bicyclists to wear protective headgear, Inexpedient to Legislate.

Rep. Letourneau spoke against.

Rep. Gorman spoke in favor.

#### MOTION TO LAY ON THE TABLE

Rep. Elliott moved that the motion to reconsider **HB 266**, requiring youth bicyclists to wear protective headgear, be laid on the table.

On a division vote, 153 members having voted in the affirmative and 179 in the negative, the motion was failed.

The question now being adoption of the motion to reconsider.

Rep. Soltani requested a roll call; sufficiently seconded.

**YEAS 160 NAYS 175****YEAS 160  
BELKNAP**

Boyce, Laurie	Pilliod, James
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**CARROLL**

Brown, Carolyn	Derby, Mark	Olimpio, J Lisbeth
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**CHESHIRE**

Allen, Peter	Eaton, Daniel	Espiefs, Peter	Fish, Douglas
Manning, Joseph	Meador, David	Mitchell, McKim	Parkhurst, Henry
Pratt, John	Richardson, Barbara	Robertson, Timothy	Slack, Pamela
Weed, Charles			

**COOS**

Mears, Edgar	Pratt, Leighton	Theberge, Robert
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**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Ham, Bonnie	Hammond, Lee
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Balcom, John	Barry, J Gail	Bergeron, Jean-Guy	Bergin, Peter
Brassard, Paul	Buckley, Raymond	Cail, Kenneth	Carter, Mark
Cernota, Albert	Chabot, Robert	Clayton, William	Clemons, Jane
Cote, Peter	Craig, James	Crane, Elenore Casey	Desmarais, Vivian
Dokmo, Cynthia	Drisko, Richard	Emerton, Larry	Fields, Dennis
Ford, Nancy	Gargas, Carolyn	Gorman, Mary	Graham, John
Haley, Robert	Hallyburton, Margaret	Irwin, Anne-Marie	Jean, Claudette
Katsiantonis, Thomas	Kopka, Angeline	Lafamme, Charles	LaFlamme, Paul
Lasky, Bette	Leach, Edward	Malloy, Chris	Martin, Mary Ellen
McHugh, Claire	Michon, Stephen	Palangas, Eric	Pappas, Christopher
Pilotte, Maurice	Price, Pamela	Rowe, Robert	Scanlon, Michael
Schulze, Joan	Spies, Paul	Sullivan, Francis	Sweeney, Cynthia
Wheeler, Robert			

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Daniels, Eric	Davis, Frank	DeJoie, John	DeStefano, Stephen
Foley, Albert	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Kenison, Leon	MacKay, James
Osborne, Jessie	Owen, Derek	Perkins, Randy	Potter, Frances
Reardon, Tara	Rush, Deanna	Wallner, Mary Jane	

**ROCKINGHAM**

Bishop, Franklin	Blanchard, MaryAnn	Casey, Kimberley	Dalrymple, Janeen
DiFruscia, Anthony	Dodge, Robert	Flanders, John Sr	Gillick, Thomas
Gould, Kenneth	Hamel, Albert	Ingram, Russell	Katsakiores, George
Katsakiores, Phyllis	Langone, John	McEachern, Paul	Norelli, Terie
O'Neil, Michael	Pitts, Jacqueline	Robertson, Carl	Ruffner, Walter
Shultis, Elizabeth	Splaine, James	Tufts, J Arthur	Vallone, Matthew
Weldy, Norman Jr	Weyler, Kenneth	Winchell, George	

**STRAFFORD**

Beube, Roger	Brown, Julie	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Grassie, Anne	Heon, Richard	Hofemann, Roland

Johnson, Nancy  
Miller, Joseph  
Smith, Marjorie

Kaen, Naida  
Pelletier, Arthur  
Spang, Judith

Keans, Sandra  
Rollo, Deanna  
Vachon, Dennis

Knowles, William  
Schmidt, Peter  
Wall, Janet

## SULLIVAN

Allison, David  
Harris, Joseph

Burling, Peter  
Harris, Sandra

Cloutier, John  
Jones, Constance

Franklin, Peter  
Leone, Richard

## NAYS 175

## BELKNAP

Ahern, Omer Jr  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Allen, Janet  
Flanders, Donald  
Rice, Thomas  
Whalley, Michael

Bartlett, Gordon  
Holbrook, Robert  
Russell, David

Clark, Charles  
Lawton, David  
Thomas, John

## CARROLL

Babson, David Jr  
McConkey, Mark  
Philbrick, Donald

Dickinson, Howard  
Merrow, Harry  
Stevens, Stanley

Hatch, Paul  
Mock, Henry

Kenney, Bettie  
Patten, Betsey

## CHESHIRE

Dexter, Judson  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John  
Tilton, Anna

Liebl, George  
Webber, Amy

## COOS

Brady, Mark  
Tholl, John Jr

King, Frederick  
Woodward, David

Richardson, Herbert

Stohl, Eric

## GRAFTON

Alger, John  
Eaton, Stephanie  
Ingbretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert  
Williams, Burton

## HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Christensen, D L Chris  
Greenberg, Gary  
Harrington, Paul  
Hopper, Gary  
Kurk, Neal  
McElroy, Henry Jr  
Mosher, William  
Pappas, Marc  
Stepanek, Stephen  
Vaillancourt, Steve

Allan, Nelson  
Balboni, Michael  
Brundige, Robert  
Christiansen, Lars  
Hagan, Barbara  
Haytayan, Harry Jr  
Hunter, Bruce  
Lawrence, James  
McRae, Karen  
Movsesian, Lori  
Pepino, Leo  
Sullivan, Peter  
Wheeler, James

Allen, Timothy  
Baroody, Benjamin  
Carlson, Donald  
Elliott, Larry  
Hall, Charles  
Hinkle, Peyton  
Infantine, William  
Lefebvre, Roland  
Mercer, Robert  
O'Brien, Lori  
Shaw, Barbara  
Tahir, Saghir

Arnold, Thomas Jr  
Batula, Peter  
Carter, Jeffery  
Gibson, John  
Hansen, Ryan  
Holden, Randolph  
Jasper, Shawn  
Lessard, Rudy  
Mooney, Maureen  
Ober, Russell III  
Slocum, Lee  
Tate, Joan

## MERRIMACK

Anderson, Eric  
Jacobson, Alf  
Leber, William  
McCormick, Tom

Currier, David  
Kennedy, Richard  
Lockwood, Priscilla  
Nutter, Edward

Dunne, Christopher  
L'Heureux, Stephen  
Marple, Richard  
Oliver, James

Field, William  
Langer, Ray  
Maxfield, Roy  
Soltani, Tony

## ROCKINGHAM

Allen, Mary  
Cady, Harriet

Belanger, Ronald  
Camm, Kevin

Bicknell, Elbert  
Carson, Sharon

Bridle, Russell  
Clark, Vivian



Coes, Betsy  
Fesh, Bob  
Griffin, Mary  
Johnson, Robert  
Langley, Jane  
Moore, Benjamin  
Putnam, Ed II  
Stone, Joseph  
Welch, David

Cooney, Richard  
Francoeur, Sheila  
Headd, James  
Johnson, Rogers  
Letourneau, Robert  
Morris, Richard  
Quandt, Matthew  
Varrell, Thomas  
Wiley, Robert

Duffy, James  
Gilbert, Jeffrey  
Holland, James Jr  
Kelley, Jane  
Major, Norman  
Packard, Sherman  
Rausch, James  
Waterhouse, Kevin  
Zolla, William

Dumaine, Dudley  
Gilbert, Karl  
Hughes, Daniel  
Kobel, Rudolph  
McKinney, Betsy  
Pantelakos, Laura  
Roessner, Kurt  
Weare, E Albert

### STRAFFORD

Albert, Russell  
Easson, Timothy  
Newton, Clifford  
Woods, Phyllis

Bemis, Alan  
Harrington, Michael  
Scott, David

Bickford, David  
Hollinger, Jeffrey  
Taylor, Kathleen

Cataldo, Sam  
Musler, George  
Twombly, James

### SULLIVAN

Ferland, Brenda  
and reconsideration failed.  
Rep. Bruno did not vote and wished to be recorded in favor.

Phinizy, James

Rodeschin, Beverly

### REGULAR CALENDAR

**HB 1188**, relative to indoor air quality in public schools. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Deanna Rush for the Majority of Education: This bill offers a 5% incentive to communities to build public elementary and secondary schools that implement high performance standards that effect indoor air quality. It also includes energy production because it is part of the problem. The bill further requires that a written maintenance plan be developed and submitted as part of the process for applying for school building aid grants. This program would be voluntary and not become effective until after 2006. The testimony on this bill was favorable and it was estimated that every dollar invested in high performance schools will return 5-10% in future savings or avoided costs. This bill makes sense for NH students and staff while also making sense for taxpayers. Vote 13-5.

Rep. Mark Carter for the Minority of Education: While we all agree that improving the air quality for those adults and children who attend our schools regularly is important, the manner in which that desirable goal is achieved is equally important. This bill will cost \$31,875.00 per year per each school (based upon a \$10 million building cost) that takes advantage of the incentive program it proposes. The minority of the committee believes that this is unnecessary and that the state building code should have air quality standards and operating systems for schools upgraded in order to improve the circumstances aimed at by this bill.

On a division vote, 244 members having voted in the affirmative and 89 in the negative, the majority committee report was adopted.

Referred to Finance.

**HB 1353-FN**, mandating open enrollment schools statewide. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. John R. M. Alger for the Majority of Education: School choice is currently available only to relatively affluent families. This bill is an important effort to upgrade the quality of our children's education by offering financial assistance to parents of limited means in selecting the school that they feel will be the best for the educational development of their children. Testimony in the House and experience reveals that children of some parents simply do not thrive and grow emotionally in the public schools. However, they can and do succeed in non-public schools chosen by their parents. Nationwide such school choice programs are growing in use and development. Both sectarian and non-sectarian schools, if on the list approved by the department of education, are included in the bill. The US Supreme Court has ruled in the recent Cleveland case that taxpayer funding if directed to the parent, who then sends it to the school they select, sectarian, or non-sectarian, is legal. Furthermore, in the case of a student seeking school-choice taxpayer support for a course in

theology, the US District Court overrode the prohibition in the state's constitution prohibiting such support for a sectarian program similar to overriding the similar prohibition in the NH Constitution. That case has been heard in the US Supreme Court and a decision is expected this coming summer. This bill includes a severability clause in the event that case is decided adversely to including sectarian schools so they can be deleted without impact otherwise on the policy in the bill. The bill has a gradual increase in certificates offered annually growing from 2000 to 14,000 annually for a total of 56,000 in seven years. The expense to the education trust fund at present would only be about 5% of adequacy grants if continued at the current level. However, the financial impact of the certificates will be reviewed thoroughly by the Finance Committee to eliminate any impact on local school districts also considering cost avoided in the public schools if the House adopts the policy in this bill. Vote 10-8.

Rep. Richard C. Leone for the Minority of Education: This bill reflects a policy change of such magnitude it could take in excess of \$185 million from the State Education Fund; also, it would adversely affect local tax rates over a seven year period and beyond. There is little or no evidence to suggest that giving a student a certificate to attend a private school will reduce costs for school districts. Based on the fact that this amendment has been considered unconstitutional according to NH Law and because NH has been struggling with the educational funding issue without a solution since 1997, there is every reason to believe that this bill would further complicate the issue. The minority feels that we as legislators will be hard pressed to explain to our voter's back home why we wanted to encumber them with higher school budgets. The minority suggests that for anyone or group that is dissatisfied with the schools, the mechanism is currently available to make changes at the local level. Coming to the State to ask it to create laws to satisfy any one group while adversely affecting so many others is not in the best interest of our State or local taxpayers.

### **Majority Amendment (0121h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing an education certificate program.

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. It is the purpose of this act to maintain and improve the quality of education in all schools in the state by providing to all parents or legal guardians in the state enhanced opportunity for the exercise of parental choice in the education of their school-age children.

2 New Chapter; Education Certificate Program. Amend RSA by inserting after chapter 193-H the following new chapter:

### **CHAPTER 193-I EDUCATION CERTIFICATE PROGRAM**

193-I:1 Program Established. The education certificate program is hereby established for the purpose of allowing the parent or legal guardian of a child to receive, on request, a certificate that may be used for tuition at a nonpublic school in New Hampshire selected by the child's parent or legal guardian.

#### **193-I:2 Eligibility and Funding.**

I.(a) Education certificates shall be available as set forth in this section to the parent or legal guardian of a child for tuition as determined by the nonpublic school up to the value of the certificate. Funding of education certificates shall be made through the education trust fund established in RSA 198:39.

(b) Entry into the program shall be limited to those pupils entering the first grade or pupils enrolled in a New Hampshire public school for a full school year preceding the year of entry into the program, whose family income does not exceed 400 percent of the federal poverty guidelines, as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2). The superintendent of the school administrative unit where the pupil resides shall require proof that a pupil is a legal resident of this state as a prerequisite to participation in this program.

(c) Applications for the program shall be submitted to the superintendent no later than March 30 of the year preceding the year of participation. The superintendent shall notify applicants of the decision within 30 days of the date of application.

#### **II. Certificates shall be made available as follows:**

(a) In the first year of the program, to children entering grades 1-2, up to a maximum of 2,000 certificates statewide.

(b) In the second year of the program, to children entering grades 1-3, up to a maximum of 4,000 certificates statewide.

(c) In the third year of the program, to children entering grades 1-4, up to a maximum of 6,000 certificates statewide.

(d) In the fourth year of the program, to children entering grades 1-5, up to a maximum of 8,000 certificates statewide.

(e) In the fifth year of the program, to children entering grades 1-6, up to a maximum of 10,000 certificates statewide.

(f) In the sixth year of the program, to children entering grades 1-7, up to a maximum of 12,000 certificates statewide.

(g) In the seventh year of the program, to children entering grades 1-8, up to a maximum of 14,000 certificates statewide.

III. The number of certificates allocated to a school district in a given year shall be a percentage of the total number of certificates available in that year. Such percentage shall be calculated by dividing the most recently available average daily membership in residence in the school district by the most recently available total statewide average daily membership in residence as calculated by the department of education.

IV. In any school district where there are more requests for certificates than certificates available in a given year as determined under paragraph III, a lottery shall be held and certificates shall be allocated according to the following criteria:

(a) First, to pupils who were awarded certificates in the immediately preceding year.

(b) Second, to pupils from families where the family income is below 200 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

(c) Third, to pupils from families where the family income is below 400 percent of the federal poverty guidelines as established and updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. section 9902 (2).

V. Pupils enrolled in the program must reapply each school year.

193-I:3 Value of Certificate. The value of a certificate, for any individual pupil, shall not exceed 80 percent of the average statewide per pupil cost of an adequate education, as determined by the department of education in the fiscal year in which the certificate is requested. If the tuition amount is less than 80 percent of the average statewide per pupil cost of an adequate education, the remainder shall be retained by the pupil's resident school district.

193-I:4 Participating Schools.

I. The appropriate official for each nonpublic school shall decide whether to participate in the certificate program.

II. A nonpublic school may admit a child with a certificate, up to the limit of the school's capacity, after reserving places for children admitted in accordance with the school's regular admissions practices.

III. Nonpublic schools shall establish criteria for the admission of children with certificates that are consistent with the admissions criteria that it regularly applies.

IV. Participating schools shall be permitted flexibility to educate pupils in accordance with the school's educational mission.

V. Only nonpublic schools approved by the state of New Hampshire shall be eligible to participate in this program.

193-I:5 Redeeming Certificates.

I. The appropriate official in the pupil's resident school district shall administer the certificate program for each pupil in that district who participates in the program. Each nonpublic school which participates in this program shall, no later than June 30 of each year, submit verification of each student in attendance for the full school year under this program on a form provided by the department of education. Such verification shall list the name, address, dates of attendance, and the tuition cost for each student attending under this program.

II. The certificate shall be in the form of a check issued by the pupil's resident school district to the pupil's parent or legal guardian and sent to the nonpublic school of choice by the parent or legal guardian. A parent or legal guardian shall indorse the check for redemption by an official of the nonpublic school.

193-I:6 Transportation. The school district in which a child resides shall be obligated to provide transportation for a child to the nonpublic school of his or her parent's or legal guardian's choice provided the nonpublic school selected is within the local school district. Any transportation costs for transporting a child to a nonpublic school outside of the local school district shall be borne by the child's parent or legal guardian.

193-I:7 Testing. Each nonpublic school which accepts a pupil who is a participant in the education certificate program shall submit to the pupil's resident school district office, no later than June 30 of each year, the test scores of any standardized test taken while such pupil was enrolled in the nonpublic school. No personally identifiable information shall be released with the test scores. This provision shall apply only to pupils in the third and sixth grades. The standardized test shall be a test that is nationally accredited or recognized and which offers an objective, comprehensive estimate of a pupil's educational development in areas such as language arts, reading, mathematics, and social studies.

193-I:8 Rulemaking. The state board of education shall adopt rules pursuant to RSA 541-A for the development of forms necessary to implement this chapter.

193-I:9 Legislative Oversight Committee. An oversight committee is established consisting of the following members:

- I. The chairperson of the house education committee, or a designee.
- II. The chairperson of the senate education committee, or a designee.
- III. One member of the house of representatives, appointed by the speaker of the house.
- IV. One member of the senate, appointed by the senate president.
- V. One member of the house finance committee, appointed by the speaker of the house.
- VI. One member of the senate finance committee, appointed by the senate president.

193-I:10 Duties of the Legislative Oversight Committee.

I. The oversight committee shall review the development and implementation of the education certificate program established in this chapter to ensure compliance with legislative policy.

II. In the third, sixth, and eighth years of the program, the oversight committee shall conduct a review of the education certificate program and submit a report, in each year of review, to the speaker of the house of representatives and the president of the senate detailing the status of the program.

193-I:11 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill establishes an education certificate program.

Rep. Rush spoke against.

Rep. Carson spoke in favor.

Rep. Jacobson spoke against and yielded to questions.

Rep. Alger spoke in favor and yielded to questions.

### MOTION TO LAY ON THE TABLE

Rep. Bergin moved that **HB 1353-FN**, mandating open enrollment schools statewide, be laid on the table.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of motion to lay on the table.

**YEAS 160 NAYS 183**

**YEAS 160**

**BELKNAP**

Bartlett, Gordon

Fitzgerald, James

Holbrook, Robert

Pilliod, James

**CARROLL**

Hatch, Paul

Olimpio, J Lisbeth

Philbrick, Donald

**CHESHIRE**

Allen, Peter	Eaton, Daniel	Espiefs, Peter	Manning, Joseph
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, John
Richardson, Barbara	Robertson, Timothy	Royce, H Charles	Slack, Pamela
Tilton, Anna	Webber, Amy	Weed, Charles	

**COOS**

Mears, Edgar	Theberge, Robert
--------------	------------------

**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Ham, Bonnie	Hammond, Lee
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Balcom, John	Baroody, Benjamin	Bergin, Peter	Buckley, Raymond
Carlson, Donald	Clayton, William	Clemons, Jane	Cote, Peter
Craig, James	Dokmo, Cynthia	Drisko, Richard	Emerton, Larry
Ford, Nancy	Gargas, Carolyn	Gorman, Mary	Haley, Robert
Hall, Charles	Holden, Randolph	Irwin, Anne-Marie	Jean, Claudette
Katsiantonis, Thomas	Kopka, Angeline	Lasky, Bette	Leach, Edward
Malloy, Chris	Mercer, Robert	Michon, Stephen	Movsesian, Lori
Palangas, Eric	Pappas, Christopher	Pilotte, Maurice	Price, Pamela
Schulze, Joan	Shaw, Barbara	Spiess, Paul	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia	Tahir, Saghir	Wheeler, Robert

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Currier, David	Daniels, Eric	Davis, Frank	DeJoie, John
DeStefano, Stephen	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Jacobson, Alf	Kenison, Leon
Lockwood, Priscilla	MacKay, James	Oliver, James	Osborne, Jessie
Owen, Derek	Perkins, Randy	Potter, Frances	Reardon, Tara
Rush, Deanna	Wallner, Mary Jane		

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Cooney, Richard
DiFruscia, Anthony	Fesh, Bob	Francoeur, Sheila	Gould, Kenneth
Ingram, Russell	Katsakiores, Phyllis	Kelley, Jane	Langley, Jane
Langone, John	McEachern, Paul	Norelli, Terie	O'Neil, Michael
Packard, Sherman	Pantelakos, Laura	Pitts, Jacqueline	Rausch, James
Robertson, Carl	Shultis, Elizabeth	Splaine, James	Stone, Joseph
Tufts, J Arthur	Vallone, Matthew	Winchell, George	

**STRAFFORD**

Berube, Roger	Brown, Julie	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Pelletier, Arthur	Rollo, Deanna	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis
Wall, Janet			

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Franklin, Peter	Harris, Joseph	Harris, Sandra	Jones, Constance
Leone, Richard	Phinizey, James		

### NAYS 183 BELKNAP

Ahern, Omer Jr  
Flanders, Donald  
Russell, David

Allen, Janet  
Lawton, David  
Thomas, John

Boyce, Laurie  
Nedeau, Stephen  
Wendelboe, Fran

Clark, Charles  
Rice, Thomas  
Whalley, Michael

### CARROLL

Babson, David Jr  
Kenney, Bettie  
Patten, Betsey

Brown, Carolyn  
McConkey, Mark  
Stevens, Stanley

Derby, Mark  
Morrow, Harry

Dickinson, Howard  
Mock, Henry

### CHESHIRE

Dexter, Judson  
Liebl, George

Fish, Douglas  
Smith, Edwin

Hunt, John

Laurent, John

### COOS

Brady, Mark  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

### GRAFTON

Alger, John  
Eaton, Stephanie  
Ingretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert  
Williams, Burton

### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Bruno, Pierre  
Cernota, Albert  
Crane, Elenore Casey  
Gibson, John  
Hagan, Barbara  
Haytayan, Harry Jr  
Infantine, William  
LaFlamme, Paul  
Martin, Mary Ellen  
Mooney, Maureen  
Pappas, Marc  
Scanlon, Michael  
Tate, Joan

Allan, Nelson  
Balboni, Michael  
Bergeron, Jean-Guy  
Cail, Kenneth  
Chabot, Robert  
Desmarais, Vivian  
Gonzalez, Carlos  
Hallyburton, Margaret  
Hinkle, Peyton  
Jasper, Shawn  
Lawrence, James  
McElroy, Henry Jr  
Mosher, William  
Pepino, Leo  
Slocum, Lee  
Vaillancourt, Steve

Allen, Timothy  
Barry, J Gail  
Brassard, Paul  
Carter, Jeffrey  
Christensen, D L Chris  
Elliott, Larry  
Graham, John  
Hansen, Ryan  
Hopper, Gary  
Kurk, Neal  
Lefebvre, Roland  
McHugh, Claire  
O'Brien, Lori  
Ross, Lawrence  
Souza, Kathleen  
Wheeler, James

Arnold, Thomas Jr  
Batula, Peter  
Brundige, Robert  
Carter, Mark  
Christiansen, Lars  
Fields, Dennis  
Greenberg, Gary  
Harrington, Paul  
Hunter, Bruce  
Laflamme, Charles  
Lessard, Rudy  
McRae, Karen  
Ober, Russell III  
Rowe, Robert  
Stepanek, Stephen

### MERRIMACK

Anderson, Eric  
Kennedy, Richard  
Marple, Richard  
Soltani, Tony

Dunne, Christopher  
L'Heureux, Stephen  
Maxfield, Roy

Field, William  
Langer, Ray  
McCormick, Tom

Foley, Albert  
Leber, William  
Nutter, Edward

### ROCKINGHAM

Allen, Mary  
Bridle, Russell  
Clark, Vivian  
Dumaine, Dudley  
Gillick, Thomas  
Headd, James  
Johnson, Robert  
Letourneau, Robert

Belanger, Ronald  
Cady, Harriet  
Dalrymple, Janeen  
Flanders, John Sr  
Gleason, John  
Holland, James Jr  
Johnson, Rogers  
Major, Norman

Bicknell, Elbert  
Camm, Kevin  
Dodge, Robert  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
McKinney, Betsy

Bishop, Franklin  
Carson, Sharon  
Duffy, James  
Gilbert, Karl  
Hamel, Albert  
Itse, Daniel  
Kobel, Rudolph  
Moore, Benjamin

Morris, Richard  
Roessner, Kurt  
Weare, E Albert  
Wiley, Robert

Noyes, Richard  
Ruffner, Walter  
Welch, David  
Zolla, William

Putnam, Ed II  
Varrell, Thomas  
Weldy, Norman Jr

Quandt, Matthew  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Musler, George  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Bickford, David  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Hollinger, Jeffrey  
Twombly, James

### SULLIVAN

Rodeschin, Beverly

and the motion to lay on the table failed.

The question being adoption of the majority committee amendment.

Reps. Tahir, Wallner and Claire Clarke spoke against.

Rep. Giuda spoke in favor.

Rep. Scott requested a roll call; sufficiently seconded.

The question being adoption of the majority committee amendment.

### YEAS 171 NAYS 172

#### YEAS 171

#### BELKNAP

Ahern, Omer Jr  
Fitzgerald, James  
Russell, David

Allen, Janet  
Flanders, Donald  
Thomas, John

Boyce, Laurie  
Lawton, David  
Wendelboe, Fran

Clark, Charles  
Rice, Thomas  
Whalley, Michael

#### CARROLL

Babson, David Jr  
Kenney, Bettie  
Patten, Betsey

Brown, Carolyn  
McConkey, Mark  
Stevens, Stanley

Derby, Mark  
Merrow, Harry

Dickinson, Howard  
Mock, Henry

#### CHESHIRE

Dexter, Judson  
Liebl, George

Fish, Douglas  
Smith, Edwin

Hunt, John

Laurent, John

#### COOS

Brady, Mark  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton

Richardson, Herbert

#### GRAFTON

Alger, John  
Eaton, Stephanie  
Ingbretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert  
Williams, Burton

#### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Bergeron, Jean-Guy  
Cail, Kenneth  
Cernota, Albert  
Crane, Elenore Casey  
Fields, Dennis  
Greenberg, Gary  
Haytayan, Harry Jr  
Hunter, Bruce

Allen, Timothy  
Barry, J Gail  
Brassard, Paul  
Carlson, Donald  
Chabot, Robert  
Desmarais, Vivian  
Gibson, John  
Hagan, Barbara  
Hinkle, Peyton  
Infantine, William

Arnold, Thomas Jr  
Batula, Peter  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Elliott, Larry  
Gonzalez, Carlos  
Hansen, Ryan  
Holden, Randolph  
Jasper, Shawn

Artz, Lawrence  
Beaton, William  
Bruno, Pierre  
Carter, Mark  
Christiansen, Lars  
Emerton, Larry  
Graham, John  
Harrington, Paul  
Hopper, Gary  
Kurk, Neal

Laflamme, Charles  
Martin, Mary Ellen  
Mooney, Maureen  
Pappas, Marc  
Stepanek, Stephen

LaFlamme, Paul  
McElroy, Henry Jr  
Mosher, William  
Pepino, Leo  
Tate, Joan

Lawrence, James  
McHugh, Claire  
O'Brien, Lori  
Slocum, Lee  
Wheeler, James

Lessard, Rudy  
McRae, Karen  
Ober, Russell III  
Souza, Kathleen

### MERRIMACK

Anderson, Eric  
Fraser, Leo Jr  
Leber, William  
Soltani, Tony

Dunne, Christopher  
Kennedy, Richard  
Maxfield, Roy

Field, William  
L'Heureux, Stephen  
McCormick, Tom

Foley, Albert  
Langer, Ray  
Nutter, Edward

### ROCKINGHAM

Belanger, Ronald  
Cady, Harriet  
Dalrymple, Janeen  
Flanders, John Sr  
Griffin, Mary  
Hughes, Daniel  
Major, Norman  
Noyes, Richard  
Ruffner, Walter  
Welch, David

Bicknell, Elbert  
Camm, Kevin  
DiFruscia, Anthony  
Gilbert, Jeffrey  
Hamel, Albert  
Itse, Daniel  
McKinney, Betsy  
Putnam, Ed II  
Varrell, Thomas  
Weldy, Norman Jr

Bishop, Franklin  
Carson, Sharon  
Dodge, Robert  
Gilbert, Karl  
Headd, James  
Johnson, Rogers  
Moore, Benjamin  
Quandt, Matthew  
Waterhouse, Kevin  
Weyler, Kenneth

Bridle, Russell  
Clark, Vivian  
Dumaine, Dudley  
Gleason, John  
Holland, James Jr  
Kobel, Rudolph  
Morris, Richard  
Roessner, Kurt  
Weare, E Albert

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Musler, George  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Bickford, David  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Hollinger, Jeffrey  
Twombly, James

### SULLIVAN

Rodeschin, Beverly

### NAYS 172

### BELKNAP

Bartlett, Gordon

Holbrook, Robert

Nedeau, Stephen

Pilliod, James

### CARROLL

Hatch, Paul

Olimpio, J Lisbeth

Philbrick, Donald

### CHESHIRE

Allen, Peter  
Meador, David  
Richardson, Barbara  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Robertson, Timothy  
Webber, Amy

Espiefs, Peter  
Parkhurst, Henry  
Royce, H Charles  
Weed, Charles

Manning, Joseph  
Pratt, John  
Slack, Pamela

### COOS

Mears, Edgar

Theberge, Robert

Woodward, David

### GRAFTON

Akins, Ralph  
Densmore, Edward  
Nordgren, Sharon

Almy, Susan  
Diamond, Estelle  
Scovner, Nancy

Benn, Bernard  
Ham, Bonnie  
Sokol, Hilda

Cooney, Mary  
Hammond, Lee  
Solomon, Peter

### HILLSBOROUGH

Allan, Nelson  
Buckley, Raymond  
Craig, James

Balcom, John  
Clayton, William  
Dokmo, Cynthia

Baroody, Benjamin  
Clemons, Jane  
Drisko, Richard

Bergin, Peter  
Cote, Peter  
Ford, Nancy



Gargas, Carolyn  
Hallyburton, Margaret  
Kopka, Angeline  
Malloy, Chris  
Palangas, Eric  
Ross, Lawrence  
Shaw, Barbara  
Sweeney, Cynthia

Gorman, Mary  
Irwin, Anne-Marie  
Lasky, Bette  
Mercer, Robert  
Pappas, Christopher  
Rowe, Robert  
Spiess, Paul  
Tahir, Saghir

Haley, Robert  
Jean, Claudette  
Leach, Edward  
Michon, Stephen  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Francis  
Vaillancourt, Steve

Hall, Charles  
Katsiantonis, Thomas  
Lefebvre, Roland  
Movsesian, Lori  
Price, Pamela  
Schulze, Joan  
Sullivan, Peter  
Wheeler, Robert

### MERRIMACK

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Hamm, Christine  
MacKay, James  
Owen, Derek  
Rush, Deanna

Bouchard, Candace  
Daniels, Eric  
French, Barbara  
Jacobson, Alf  
Marple, Richard  
Perkins, Randy  
Wallner, Mary Jane

Brueggemann, Donald  
Davis, Frank  
Gile, Mary  
Kenison, Leon  
Oliver, James  
Potter, Frances

Clarke, Claire  
DeJoie, John  
Hager, Elizabeth  
Lockwood, Priscilla  
Osborne, Jessie  
Reardon, Tara

### ROCKINGHAM

Allen, Mary  
Cooney, Richard  
Gillick, Thomas  
Katsakiores, George  
Langone, John  
O'Neil, Michael  
Rausch, James  
Stone, Joseph  
Winchell, George

Blanchard, MaryAnn  
Duffy, James  
Gould, Kenneth  
Katsakiores, Phyllis  
Letourneau, Robert  
Packard, Sherman  
Robertson, Carl  
Tufts, J Arthur  
Zolla, William

Casey, Kimberley  
Fesh, Bob  
Ingram, Russell  
Kelley, Jane  
McEachern, Paul  
Pantelakos, Laura  
Shultis, Elizabeth  
Vallone, Matthew

Coes, Betsy  
Francoeur, Sheila  
Johnson, Robert  
Langley, Jane  
Norelli, Terie  
Pitts, Jacqueline  
Splaine, James  
Wiley, Robert

### STRAFFORD

Berube, Roger  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Spang, Judith  
Wall, Janet

Brown, Julie  
Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Taylor, Katherine

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Schmidt, Peter  
Taylor, Kathleen

Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Smith, Marjorie  
Vachon, Dennis

### SULLIVAN

Allison, David  
Franklin, Peter  
Leone, Richard

Burling, Peter  
Harris, Joseph  
Phinzy, James

Cloutier, John  
Harris, Sandra

Ferland, Brenda  
Jones, Constance

and the majority committee amendment failed.

The question now being adoption of the motion of Ought to Pass.

Rep. Stephen L'Heureux spoke against.

Motion failed.

Rep. Stephen L'Heureux moved Inexpedient to Legislate and spoke in favor.

Rep. Balboni requested a roll call; sufficiently seconded.

The question being adoption of Inexpedient to Legislate.

### YEAS 258 NAYS 85

### YEAS 258

### BELKNAP

Allen, Janet  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

Bartlett, Gordon  
Lawton, David  
Russell, David

Fitzgerald, James  
Nedean, Stephen  
Thomas, John

Flanders, Donald  
Pilliod, James  
Wendelboe, Fran

**CARROLL**

Babson, David Jr  
Mock, Henry  
Stevens, Stanley

Dickinson, Howard  
Olimpio, J Lisbeth

Hatch, Paul  
Patten, Betsey

Kenney, Bettie  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Meador, David  
Robertson, Timothy  
Tilton, Anna

Dexter, Judson  
Laurent, John  
Mitchell, McKim  
Royce, H Charles  
Webber, Amy

Eaton, Daniel  
Liebl, George  
Parkhurst, Henry  
Slack, Pamela  
Weed, Charles

Espiefs, Peter  
Manning, Joseph  
Richardson, Barbara  
Smith, Edwin

**COOS**

King, Frederick  
Tholl, John Jr

Mears, Edgar  
Woodward, David

Stohl, Eric

Theberge, Robert

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Eaton, Stephanie  
Ingbertson, Paul  
Sokol, Hilda

Alger, John  
Cooney, Mary  
Giuda, Robert  
Maybeck, Margie  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Ham, Bonnie  
Nordgren, Sharon  
Williams, Burton

Barker, Robert  
Diamond, Estelle  
Hammond, Lee  
Scovner, Nancy

**HILLSBOROUGH**

Allan, Nelson  
Barry, J Gail  
Carlson, Donald  
Clayton, William  
Desmarais, Vivian  
Emerton, Larry  
Gonzalez, Carlos  
Haley, Robert  
Holden, Randolph  
Katsiantonis, Thomas  
Lawrence, James  
Malloy, Chris  
Movsesian, Lori  
Pappas, Christopher  
Ross, Lawrence  
Shaw, Barbara  
Sullivan, Peter  
Wheeler, Robert

Balboni, Michael  
Batula, Peter  
Carter, Mark  
Clemons, Jane  
Dokmo, Cynthia  
Fields, Dennis  
Gorman, Mary  
Hall, Charles  
Hunter, Bruce  
Kopka, Angeline  
Leach, Edward  
McRae, Karen  
O'Brien, Lori  
Pappas, Marc  
Rowe, Robert  
Spiess, Paul  
Sweeney, Cynthia

Balcom, John  
Bergin, Peter  
Christensen, D L Chris  
Cote, Peter  
Drisko, Richard  
Ford, Nancy  
Graham, John  
Hallyburton, Margaret  
Irwin, Anne-Marie  
Kurk, Neal  
Lefebvre, Roland  
Mercer, Robert  
Ober, Russell III  
Pilotte, Maurice  
Scanlon, Michael  
Stepanek, Stephen  
Tahir, Saghir

Baroody, Benjamin  
Buckley, Raymond  
Christiansen, Lars  
Craig, James  
Elliott, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Hinkle, Peyton  
Jean, Claudette  
Lasky, Bette  
Lessard, Rudy  
Michon, Stephen  
Palangas, Eric  
Price, Pamela  
Schulze, Joan  
Sullivan, Francis  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
Fraser, Leo Jr  
Hamm, Christine  
Langer, Ray  
Marple, Richard  
Owen, Derek  
Rush, Deanna

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
French, Barbara  
Jacobson, Alf  
Leber, William  
Maxfield, Roy  
Perkins, Randy  
Wallner, Mary Jane

Bouchard, Candace  
Daniels, Eric  
Dunne, Christopher  
Gile, Mary  
Kenison, Leon  
Lockwood, Priscilla  
Oliver, James  
Potter, Frances

Brueggemann, Donald  
Davis, Frank  
Field, William  
Hager, Elizabeth  
L'Heureux, Stephen  
MacKay, James  
Osborne, Jessie  
Reardon, Tara

**ROCKINGHAM**

Allen, Mary  
Camm, Kevin  
Cooney, Richard

Belanger, Ronald  
Carson, Sharon  
Dalrymple, Janeen

Bishop, Franklin  
Casey, Kimberley  
Dodge, Robert

Blanchard, MaryAnn  
Coes, Betsy  
Fesh, Bob

Flanders, John Sr  
 Gillick, Thomas  
 Hughes, Daniel  
 Katsakiores, Phyllis  
 Letourneau, Robert  
 Moore, Benjamin  
 Pantelakos, Laura  
 Roessner, Kurt  
 Tufts, J Arthur  
 Wiley, Robert

Francoeur, Sheila  
 Gould, Kenneth  
 Ingram, Russell  
 Kelley, Jane  
 Major, Norman  
 Norelli, Terie  
 Pitts, Jacqueline  
 Shultis, Elizabeth  
 Vallone, Matthew  
 Winchell, George

Gilbert, Jeffrey  
 Griffin, Mary  
 Johnson, Robert  
 Langley, Jane  
 McEachern, Paul  
 O'Neil, Michael  
 Rausch, James  
 Splaine, James  
 Weare, E Albert  
 Zolla, William

Gilbert, Karl  
 Holland, James Jr  
 Katsakiores, George  
 Langone, John  
 McKinney, Betsy  
 Packard, Sherman  
 Robertson, Carl  
 Stone, Joseph  
 Welch, David

### STRAFFORD

Berube, Roger  
 Creteau, Irene  
 Harrington, Michael  
 Kaen, Naida  
 Newton, Clifford  
 Smith, Marjorie  
 Vachon, Dennis

Bickford, David  
 Dunlap, Patricia  
 Heon, Richard  
 Keans, Sandra  
 Pelletier, Arthur  
 Spang, Judith  
 Wall, Janet

Brown, Julie  
 Easson, Timothy  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Taylor, Katherine  
 Woods, Phyllis

Campbell, W Packy  
 Grassie, Anne  
 Johnson, Nancy  
 Miller, Joseph  
 Schmidt, Peter  
 Taylor, Kathleen

### SULLIVAN

Allison, David  
 Franklin, Peter  
 Leone, Richard

Burling, Peter  
 Harris, Joseph  
 Phinizy, James

Cloutier, John  
 Harris, Sandra  
 Rodeschin, Beverly

Ferland, Brenda  
 Jones, Constance

### NAYS 85

### BELKNAP

Ahern, Omer Jr

Boyce, Laurie

Clark, Charles

### CARROLL

Brown, Carolyn

Derby, Mark

McConkey, Mark

Merrow, Harry

### CHESHIRE

Hunt, John

Pratt, John

### COOS

Brady, Mark

Pratt, Leighton

Richardson, Herbert

### GRAFTON

Dorsett, Andrew  
 Sorg, Gregory

Dudley, Terri

Gilman, G Michael

Gionet, Edmond

### HILLSBOROUGH

Adams, Jarvis  
 Beaton, William  
 Bruno, Pierre  
 Chabot, Robert  
 Hansen, Ryan  
 Infantine, William  
 Martin, Mary Ellen  
 Mosher, William  
 Tate, Joan

Allen, Timothy  
 Bergeron, Jean-Guy  
 Cail, Kenneth  
 Crane, Elenore Casey  
 Harrington, Paul  
 Jasper, Shawn  
 McElroy, Henry Jr  
 Pepino, Leo  
 Wheeler, James

Arnold, Thomas Jr  
 Brassard, Paul  
 Carter, Jeffrey  
 Gibson, John  
 Haytayan, Harry Jr  
 Lafflamme, Charles  
 McHugh, Claire  
 Slocum, Lee

Artz, Lawrence  
 Brundige, Robert  
 Cernota, Albert  
 Hagan, Barbara  
 Hopper, Gary  
 LaFlamme, Paul  
 Mooney, Maureen  
 Souza, Kathleen

### MERRIMACK

Foley, Albert  
 Soltani, Tony

Kennedy, Richard

McCormick, Tom

Nutter, Edward

**ROCKINGHAM**

Bicknell, Elbert  
DiFruscia, Anthony  
Hamel, Albert  
Kobel, Rudolph  
Quandt, Matthew  
Weldy, Norman Jr

Bridle, Russell  
Duffy, James  
Headd, James  
Morris, Richard  
Ruffner, Walter  
Weyler, Kenneth

Cady, Harriet  
Dumaine, Dudley  
Itse, Daniel  
Noyes, Richard  
Varrell, Thomas

Clark, Vivian  
Gleason, John  
Johnson, Rogers  
Putnam, Ed II  
Waterhouse, Kevin

**STRAFFORD**

Albert, Russell  
Musler, George

Bemis, Alan  
Scott, David

Cataldo, Sam  
Twombly, James

Hollinger, Jeffrey

**SULLIVAN**

None

and Inexpedient to Legislate was adopted.

**HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill amends 2003, 319:178, II to add "positions within the regional community-technical college system that are directly responsible for child care" to the State Employee Hiring Delay; Exemptions. This exemption will enable the New Hampshire Technical Institute Child and Family Development Center to be in compliance with RSA 170-E which establishes the ratio of adult to infant/toddler and pre-school children attending the institute's laboratory school for practicum students in early childhood education. Vote 11-4.

**Amendment (0049h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Amend 2003, 319:178, II to read as follows:

II. Direct care positions, custodial positions, law enforcement positions, *positions within the regional community-technical college system that are directly responsible for child care*, and positions restored or created by this act or created on or after June 30, 2003 shall be exempt from the hiring delay imposed in paragraph I.

2 Effective Date. This act shall take effect upon its passage.

Adopted.

Report adopted.

Referred to Finance.

**HB 1265**, establishing a committee to study prescriptive authority of qualified psychologists. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Michael O'Neil for the Majority of Executive Departments and Administration: Last year, the committee had before it HB 443 which would have granted prescriptive authority to qualified psychologists. The bill was studied in depth by subcommittee and presented to the full committee, which voted 18-2 to recommend inexpedient to legislate. HB 1265 deals with the very same subject. The only change is to form a study committee of house and senate members. Over 15 people testified in opposition. No new evidence was brought forward nor was there a consensus that the issue needed to be studied by the legislature. Furthermore, no other states in the country are looking into legislative studies on this issue. If the issue needs to be studied, it can be done outside the legislative arena. Vote 15-2.

Rep. John DeJoie for the Minority of Executive Departments and Administration: This bill seeks to establish a legislative study committee to review the many complex issues surrounding authorizing prescriptive authority to qualified psychologists. This bill does not attempt to grant prescriptive authority, it simply seeks to better understand it. HB 1265 is a follow-up to HB 443, which was heard in 2003. The committee heard lengthy conflicting testimony regarding the quality of the state's mental health care delivery system and the merits of the policy currently in question. There was more than four hours of public testimony on HB 443 (2003) and another hour of testimony on the current bill. HB 443 was deliberated in subcommittee for about an hour, while HB

1265 was deliberated for several minutes. The medical community testified that access to psychiatric care is not a problem in New Hampshire today. Their testimony indicated that primary care physicians, who prescribe about 80% of psychotropic medications, are able to diagnose the vast majority of psychological problems and are comfortable with prescribing psychotropic medications. This despite their limited formal psychological training and continuing education hours in psychiatry. In contrast, psychologists testified that consumers do not have adequate access, no sufficient time for adequate diagnosis or monitoring of side effects, nor is there sufficient time to integrate psychological techniques into treatment to minimize the necessity of medication interventions. The majority believes the issue has been studied sufficiently. Based on the excessive amount of public testimony, versus the small amount of quantitative time spent deliberating the issue, the minority does not agree that the issue has received adequate study. The minority, as well as the constituents, believes much more review, research and study is necessary in order to develop a thorough understanding of this issue. Based on the number of bills submitted this session about the overuse of psychotropic medications on children, it would appear that other legislators agreed that this issue requires further study.

Rep. DeJoie spoke against.

Rep. O'Neil spoke in favor.

On a division vote, 266 members having voted in the affirmative and 68 in the negative, the majority committee report was adopted.

Reps. Sandra Harris and Shultis declared a conflict of interest and did not participate.

**HB 1176**, relative to government access to private property. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Henry P. Mock for the Majority of Judiciary: All Americans cherish their ability to own and to protect their private property. This bill was brief and stated the following: "Absent a lawfully issued search warrant, no state, county, municipal, or other public official shall go onto any private property for any purpose (emphasis added) without the prior consent of the landowner". Although the sponsor said the "intent is to protect private property rights – that it was not intended to restrict law enforcement in any way" – the questions began: what about state forestry officials looking for insect infestations where the landowner is unavailable? What about the moose or deer struck by an auto landing on a front lawn? What about the mailman delivering mail? What about neighbors and others searching the neighborhood for a lost child? And the exceptions went on and on. The exceptions grew to such an extent it led Atty. Gallo, opposing and representing the Attorney General's office, to say that the "exceptions would swallow up the bill". Although the minority amendment gallantly attempts to improve the bill, one could drive a Mack Truck through it and make innocent persons trying to do their jobs "criminals". With \$100 per day liquidated damages per each day such violation occurs or \$5000, together with costs and reasonable attorneys fees, the proposed amendment is excessive at the least. This bill could have far reaching and devastating unintended consequences. Vote 7-5.

Rep. Gregory M. Sorg for the Minority of Judiciary: The sponsors of this bill sought no substantive change to existing law, but merely desired to add, for purposes of clarification, a general declaration that assumption of a civil office confers no legal cover to an over-zealous holder of that office who wrongfully enters upon private property in the supposed performance of its duties. This worthwhile objective was accomplished by an amendment, which stated the general rule and then excepted from it statutes and court decisions that now or may hereafter limit or qualify it. The amendment also added a civil remedy to prevent the bill from being merely hortatory or aspirational.

Rep. Ahern spoke against.

Rep. Haytayan spoke in favor.

Rep. Ahern requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 277 NAYS 57**

**YEAS 277  
BELKNAP**

Allen, Janet  
Fitzgerald, James  
Rice, Thomas

Bartlett, Gordon  
Flanders, Donald  
Russell, David

Boyce, Laurie  
Holbrook, Robert  
Thomas, John

Clark, Charles  
Nedeau, Stephen  
Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Merrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Stevens, Stanley	

**CHESHIRE**

Allen, Peter	Dexter, Judson	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Hunt, John	Laurent, John	Liebl, George
Manning, Joseph	Meader, David	Mitchell, McKim	Parkhurst, Henry
Richardson, Barbara	Robertson, Timothy	Slack, Pamela	Smith, Edwin
Webber, Amy	Weed, Charles		

**COOS**

King, Frederick	Mears, Edgar	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Theberge, Robert	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Almy, Susan	Benn, Bernard
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dorsett, Andrew
Dudley, Terri	Eaton, Stephanie	Gionet, Edmond	Giuda, Robert
Ham, Bonnie	Hammond, Lee	Maybeck, Margie	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	Williams, Burton

**HILLSBOROUGH**

Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence	Balcom, John
Baroody, Benjamin	Barry, J Gail	Batula, Peter	Beaton, William
Bergin, Peter	Brassard, Paul	Brundige, Robert	Buckley, Raymond
Cail, Kenneth	Carlson, Donald	Carter, Jeffrey	Carter, Mark
Cernota, Albert	Chabot, Robert	Christensen, D L Chris	Clayton, William
Clemons, Jane	Cote, Peter	Craig, James	Desmarais, Vivian
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Ford, Nancy	Gargas, Carolyn	Gonzalez, Carlos
Gorman, Mary	Graham, John	Greenberg, Gary	Haley, Robert
Hall, Charles	Hallyburton, Margaret	Haytayan, Harry Jr	Holden, Randolph
Hunter, Bruce	Infantine, William	Irwin, Anne-Marie	Jasper, Shawn
Jean, Claudette	Katsiantonis, Thomas	Kopka, Angeline	Kurk, Neal
Laflamme, Charles	LaFlamme, Paul	Lasky, Bette	Lawrence, James
Leach, Edward	Lefebvre, Roland	Lessard, Rudy	Malloy, Chris
Martin, Mary Ellen	McElroy, Henry Jr	McHugh, Claire	Michon, Stephen
Mosher, William	Movsesian, Lori	O'Brien, Lori	Palangas, Eric
Pappas, Christopher	Pappas, Marc	Pepino, Leo	Pilotte, Maurice
Price, Pamela	Ross, Lawrence	Rowe, Robert	Scanlon, Michael
Schulze, Joan	Shaw, Barbara	Souza, Kathleen	Spiess, Paul
Stepanek, Wendie	Sullivan, Francis	Sullivan, Peter	Sweeney, Cynthia
Tahir, Saghir	Tate, Joan	Wheeler, Robert	

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Daniels, Eric	Davis, Frank
DeStefano, Stephen	Dunne, Christopher	Foley, Albert	Fraser, Leo Jr
French, Barbara	Gile, Mary	Hager, Elizabeth	Hamm, Christine
Jacobson, Alf	Kenison, Leon	L'Heureux, Stephen	Langer, Ray
Leber, William	Lockwood, Priscilla	MacKay, James	Marple, Richard
Maxfield, Roy	McCormick, Tom	Oliver, James	Osborne, Jessie
Owen, Derek	Perkins, Randy	Potter, Frances	Reardon, Tara
Rush, Deanna	Wallner, Mary Jane		

**ROCKINGHAM**

Belanger, Ronald  
Casey, Kimberley  
Dalrymple, Janeen  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
Moore, Benjamin  
Packard, Sherman  
Rausch, James  
Stone, Joseph  
Waterhouse, Kevin  
Winchell, George

Blanchard, MaryAnn  
Clark, Vivian  
Dodge, Robert  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
Norelli, Terie  
Pantelakos, Laura  
Robertson, Carl  
Tufts, J Arthur  
Weare, E Albert  
Zolla, William

Bridle, Russell  
Coes, Betsy  
Duffy, James  
Gilbert, Jeffrey  
Gould, Kenneth  
Hughes, Daniel  
Katsakiores, George  
Langley, Jane  
McEachern, Paul  
Noyes, Richard  
Pitts, Jacqueline  
Roessner, Kurt  
Vallone, Matthew  
Welch, David

Carson, Sharon  
Cooney, Richard  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Katsakiores, Phyllis  
Langone, John  
McKinney, Betsy  
O'Neil, Michael  
Putnam, Ed II  
Splaine, James  
Varrell, Thomas  
Weldy, Norman Jr

**STRAFFORD**

Bemis, Alan  
Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Schmidt, Peter  
Taylor, Kathleen

Berube, Roger  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Smith, Marjorie  
Twombly, James

Bickford, David  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Spang, Judith  
Vachon, Dennis

Cataldo, Sam  
Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Taylor, Katherine  
Wall, Janet

**SULLIVAN**

Allison, David  
Franklin, Peter  
Rodeschin, Beverly

Burling, Peter  
Harris, Joseph

Cloutier, John  
Harris, Sandra

Ferland, Brenda  
Jones, Constance

**NAYS 57****BELKNAP**

Ahern, Omer Jr

Lawton, David

Pilliod, James

Wendelboe, Fran

**CARROLL**

Dickinson, Howard

**CHESHIRE**

Tilton, Anna

**COOS**

Brady, Mark

**GRAFTON**

Barker, Robert

Gilman, G Michael

Ingbretson, Paul

Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Bruno, Pierre  
Hagan, Barbara  
Hopper, Gary  
Slocum, Lee

Allen, Timothy  
Christiansen, Lars  
Hansen, Ryan  
McRae, Karen  
Vaillancourt, Steve

Balboni, Michael  
Crane, Elenore Casey  
Harrington, Paul  
Mooney, Maureen  
Wheeler, James

Bergeron, Jean-Guy  
Gibson, John  
Hinkle, Peyton  
Ober, Russell III

**MERRIMACK**

Field, William

Kennedy, Richard

Nutter, Edward

Soltani, Tony

**ROCKINGHAM**

Allen, Mary  
DiFruscia, Anthony  
Quandt, Matthew

Bicknell, Elbert  
Dumaine, Dudley  
Ruffner, Walter

Cady, Harriet  
Itse, Daniel  
Weyler, Kenneth

Camm, Kevin  
Morris, Richard  
Wiley, Robert

**STRAFFORD**

Albert, Russell  
Harrington, Michael  
Scott, David

Brown, Julie  
Hollinger, Jeffrey  
Woods, Phyllis

Campbell, W Packy  
Musler, George

Easson, Timothy  
Newton, Clifford

**SULLIVAN**

Phinizy, James

and the majority committee report was adopted.

**SPECIAL ORDER**

**HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: This bill would establish a committee to study whether to withdraw from corporations their status as legal persons, by means of which they acquire, like natural persons, the benefits and protection of relevant parts of the federal and New Hampshire Bills of Rights. The committee concluded that many of the specific issues raised by the sponsor and supporting witnesses implicated the commerce, contracts and supremacy clauses of the federal constitution that no enactment of the New Hampshire Legislature could affect. Moreover, the direction to which the study sought by the bill appears aimed is towards the theoretical, social and economic underpinnings of the entire capitalist system. This was not considered an appropriate subject for the use of the Legislature's time and resources. Vote 18-1.

Reps. Owen and Kennedy spoke against.

Rep. Sorg spoke in favor.

Adopted.

**REGULAR CALENDAR (CONT'D.)**

**HB 1153**, relative to employment security. **REFER FOR INTERIM STUDY**

Rep. Jarvis Adams IV for Labor, Industrial and Rehabilitative Services: Because we did not have adequate time to study all of the available information including data from other states that have visited this issue, the Committee recommended the bill to interim study with the full consent of the prime sponsor. Vote 14-0.

Adopted.

**HB 1270**, prohibiting the deduction of any taxes from mileage reimbursement checks for house members. **INEXPEDIENT TO LEGISLATE**

Rep. Donald R. Philbrick for Legislative Administration: The question raised by HB 1270 has been before the legislature many times before. In 1991 the IRS issued an advisory opinion declaring New Hampshire Legislators to be considered employees of the state for income tax purposes. Payments were based on attendance rather than actual travel performed. In 1993 the House and Senate adopted HCR 12 which called for a repeal of this opinion. This was unsuccessful and repeal never came about. In 1997 HB 440 was passed and signed by the Governor. This bill allowed legislators to select one of two methods of mileage payment: 1- Each day of attendance at the state rate or 2 - Actual mileage driven by the legislator at the current federal rate. This has given all legislators an option and has worked very well, therefore the committee voted ITL. Vote 13-0.

Rep. Marple spoke against.

Adopted.

**PROTEST**

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Marple requested that his protest be entered on the Journal.

I ask that my protest concerning the action of this House on HB 1270 today be recorded in the records of this House. The protest is founded in the committee's reliance on a 13 year old "advi-



sory opinion" which has been nullified by the United States Supreme Court, 501 US.452 which ratified the lawful definition of "employee" enumerated in 29 USC 630(E), as well as Article 15, Part II New Hampshire Constitution. Representatives of this House are not employees of this state as excluded by enumerated cumulative supplement 2003, Labor RSA 282-A:9, IV, 1,2, which does "not include," (o), (1) "as an elected official", (2) "as a member of a legislative body or as a member of the Judiciary of the state or political subdivision." The committee report is not in accord with the current law.

### REGULAR CALENDAR (CONT'D.)

**HB 1386**, relative to participation by nonresident taxpayers in town meetings. **MAJORITY: IN-EXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Nancy K. Johnson for the Majority of Municipal and County Government: The committee was sympathetic to the fact that towns' people currently can over ride the town moderator when he/she decides if a non-resident property owner can speak at a town meeting. The committee also recognized that non-residents do have the ability to discuss issues with selectmen and other town officials, along with voicing their concerns to their State Representatives and Senators. Although the solution proposed by HB 1386 is well intended, the majority of the committee did not feel that eliminating the moderator's and the legislative body's authority over procedural matters regarding the town meeting does not constitute a violation of non-resident's rights. Vote 8-5

Rep. Dudley D. Dumaine for the Minority of Municipal and County Government: The minority believes that while this legislation is a local control issue, it is also that of a constitutional issue. The minority believes that an individual's right to speak freely, granted to all of us by the 1st Amendment was written into our Constitution to protect all American citizens. Our 1st Amendment Right of free speech does not differentiate between the non-resident and resident taxpayer. The minority believes that the Constitutional Right of the non-resident taxpayer to peaceably assemble at a town meeting for a reasonable opportunity to speak and express his or her own personal views on an issue which directly affects them must never be prohibited by anyone. This legislation does not allow a non-resident taxpayer to vote. It simply affords that non-resident taxpayer, who owns residential property within a particular community an opportunity to speak on an issue that directly affects the very taxes he or she is paying into that particular community. Therefore, the minority believes that an individual's right to peaceably assemble and freely speak should never be obstructed by any one individual or by any form of government or by any form of a majority. The minority further believes that taxation must never be without representation.

Rep. Dumaine spoke against and yielded to questions.

Rep. Ahern spoke against.

Reps. Stohl and Nancy Johnson spoke in favor.

Rep. Ahern requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 218 NAYS 115**

### YEAS 218

#### BELKNAP

Allen, Janet	Bartlett, Gordon	Clark, Charles	Fitzgerald, James
Flanders, Donald	Holbrook, Robert	Lawton, David	Nedeau, Stephen
Pilliod, James	Russell, David	Thomas, John	Whalley, Michael

#### CARROLL

Brown, Carolyn	Dickinson, Howard	Hatch, Paul	McConkey, Mark
Morrow, Harry	Mock, Henry	Patten, Betsey	Philbrick, Donald
Stevens, Stanley			

#### CHESHIRE

Allen, Peter	Eaton, Daniel	Espiefs, Peter	Hunt, John
Laurent, John	Meador, David	Mitchell, McKim	Parkhurst, Henry
Richardson, Barbara	Robertson, Timothy	Slack, Pamela	Smith, Edwin

**COOS**

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Richardson, Herbert  
Woodward, David

Stohl, Eric

**GRAFTON**

Akins, Ralph  
Densmore, Edward  
Gionet, Edmond  
Nordgren, Sharon

Barker, Robert  
Dorsett, Andrew  
Giuda, Robert  
Scovner, Nancy

Benn, Bernard  
Dudley, Terri  
Ham, Bonnie  
Solomon, Peter

Cooney, Mary  
Eaton, Stephanie  
Ingbretson, Paul  
Williams, Burton

**HILLSBOROUGH**

Allan, Nelson  
Brundige, Robert  
Carter, Mark  
Clayton, William  
Crane, Elenore Casey  
Emerton, Larry  
Gorman, Mary  
Hallyburton, Margaret  
Jean, Claudette  
Lasky, Bette  
Michon, Stephen  
Pappas, Marc  
Rowe, Robert  
Souza, Kathleen  
Tahir, Saghir

Baroody, Benjamin  
Buckley, Raymond  
Cemota, Albert  
Clemons, Jane  
Dokmo, Cynthia  
Fields, Dennis  
Graham, John  
Hansen, Ryan  
Katsiantonis, Thomas  
Malloy, Chris  
Movsesian, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Francis  
Tate, Joan

Batula, Peter  
Cail, Kenneth  
Chabot, Robert  
Cote, Peter  
Drisko, Richard  
Ford, Nancy  
Greenberg, Gary  
Hunter, Bruce  
Kopka, Angeline  
Martin, Mary Ellen  
Palangas, Eric  
Price, Pamela  
Schulze, Joan  
Sullivan, Peter  
Wheeler, Robert

Bergin, Peter  
Carlson, Donald  
Christensen, D L Chris  
Craig, James  
Elliott, Larry  
Gargas, Carolyn  
Haley, Robert  
Irwin, Anne-Marie  
Kurk, Neal  
Mercer, Robert  
Pappas, Christopher  
Ross, Lawrence  
Shaw, Barbara  
Sweeney, Cynthia

**MERRIMACK**

Anderson, Eric  
Currier, David  
DeStefano, Stephen  
Kenison, Leon  
MacKay, James  
Oliver, James  
Rush, Deanna

Blanchard, Elizabeth  
Daniels, Eric  
Dunne, Christopher  
L'Heureux, Stephen  
Marple, Richard  
Perkins, Randy  
Wallner, Mary Jane

Brueggemann, Donald  
Davis, Frank  
Hager, Elizabeth  
Leber, William  
Maxfield, Roy  
Potter, Frances

Clarke, Claire  
DeJoie, John  
Jacobson, Alf  
Lockwood, Priscilla  
Nutter, Edward  
Reardon, Tara

**ROCKINGHAM**

Belanger, Ronald  
Camm, Kevin  
Coes, Betsy  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Johnson, Rogers  
Kobel, Rudolph  
McKinney, Betsy  
Noyes, Richard  
Rausch, James  
Vallone, Matthew  
Weldy, Norman Jr

Bicknell, Elbert  
Carson, Sharon  
Dalrymple, Janeen  
Francoeur, Sheila  
Gleason, John  
Holland, James Jr  
Katsakiores, George  
Langley, Jane  
Moore, Benjamin  
O'Neil, Michael  
Robertson, Carl  
Waterhouse, Kevin  
Winchell, George

Blanchard, MaryAnn  
Casey, Kimberley  
DiFruscia, Anthony  
Gilbert, Jeffrey  
Gould, Kenneth  
Hughes, Daniel  
Katsakiores, Phyllis  
Langone, John  
Morris, Richard  
Packard, Sherman  
Stone, Joseph  
Weare, E Albert  
Zolla, William

Bridle, Russell  
Clark, Vivian  
Dodge, Robert  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Kelley, Jane  
Major, Norman  
Norelli, Terie  
Pantelakos, Laura  
Tufts, J Arthur  
Welch, David

**STRAFFORD**

Bemis, Alan  
Dunlap, Patricia  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna

Berube, Roger  
Grassie, Anne  
Johnson, Nancy  
Miller, Joseph  
Smith, Marjorie

Brown, Julie  
Harrington, Michael  
Kaen, Naida  
Newton, Clifford  
Twombly, James

Creteau, Irene  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Vachon, Dennis

**SULLIVAN**

Allison, David  
Jones, Constance

Burling, Peter  
Rodeschin, Beverly

Harris, Joseph

Harris, Sandra

**NAYS 115****BELKNAP**

Ahern, Omer Jr

Boyce, Laurie

Rice, Thomas

Wendelboe, Fran

**CARROLL**

Babson, David Jr

Derby, Mark

Kenney, Bettie

Olimpio, J Lisbeth

**CHESHIRE**

Dexter, Judson  
Tilton, Anna

Fish, Douglas  
Webber, Amy

Liebl, George  
Weed, Charles

Manning, Joseph

**COOS**

Pratt, Leighton

**GRAFTON**

Alger, John  
Hammond, Lee

Almy, Susan  
Maybeck, Margie

Diamond, Estelle  
Sokol, Hilda

Gilman, G Michael  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Bergeron, Jean-Guy  
Christiansen, Lars  
Hagan, Barbara  
Holden, Randolph  
Laflamme, Charles  
Lefebvre, Roland  
Mooney, Maureen  
Pepino, Leo  
Wheeler, James

Allen, Timothy  
Balcom, John  
Brassard, Paul  
Desmarais, Vivian  
Hall, Charles  
Hopper, Gary  
LaFlamme, Paul  
McElroy, Henry Jr  
Mosher, William  
Slocum, Lee

Arnold, Thomas Jr  
Barry, J Gail  
Bruno, Pierre  
Gibson, John  
Harrington, Paul  
Infantine, William  
Lawrence, James  
McHugh, Claire  
O'Brien, Lori  
Stepanek, Stephen

Artz, Lawrence  
Beaton, William  
Carter, Jeffrey  
Gonzalez, Carlos  
Hinkle, Peyton  
Jasper, Shawn  
Leach, Edward  
McRae, Karen  
Ober, Russell III  
Vaillancourt, Steve

**MERRIMACK**

Bouchard, Candace  
French, Barbara  
Langer, Ray  
Soltani, Tony

Field, William  
Gile, Mary  
McCormick, Tom

Foley, Albert  
Hamm, Christine  
Osborne, Jessie

Fraser, Leo Jr  
Kennedy, Richard  
Owen, Derek

**ROCKINGHAM**

Allen, Mary  
Duffy, James  
Itse, Daniel  
Pitts, Jacqueline  
Ruffner, Walter  
Wiley, Robert

Bishop, Franklin  
Dumaine, Dudley  
Johnson, Robert  
Putnam, Ed II  
Splaine, James

Cady, Harriet  
Fesh, Bob  
Letourneau, Robert  
Quandt, Matthew  
Varrell, Thomas

Cooney, Richard  
Headd, James  
McEachern, Paul  
Roessner, Kurt  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Easson, Timothy  
Spang, Judith

Bickford, David  
Hollinger, Jeffrey  
Taylor, Kathleen

Campbell, W Packy  
Schmidt, Peter  
Wall, Janet

Cataldo, Sam  
Scott, David  
Woods, Phyllis

**SULLIVAN**

Cloutier, John

Ferland, Brenda

Franklin, Peter

Phinizy, James

and the majority committee report was adopted.

**HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Scabees Bridge. **OUGHT TO PASS**

Rep. Edmond D. Gionet for Public Works and Highways: The Committee feels that HB 1260 is a great opportunity to commemorate a branch of the service that up until now, had not had any monument named after them in New Hampshire and possibly any other state. To commemorate the important and significant role that the Seabees played protecting and defending our Country both in peace and during war, we feel that it is appropriate to name the bridge as referenced in this bill in their honor. Vote 15-0.

Adopted.

Ordered to third reading.

**HB 1411-FN-A**, relative to funding state science laboratories and making an appropriation therefor. **REFER FOR INTERIM STUDY**

Rep. Edwin O. Smith for Public Works and Highways: This bill came to the committee two weeks before the deadline to report it out. The bill as written did not even have the support of the prime sponsor. The sponsor requested an amendment and that amendment still did not meet his expectations and it was not even presented to the committee. The sponsor is still working to get the amendment in an acceptable form, but due to deadlines, the committee reported the bill for interim study. The sponsor will present future amendments to the committee with the intent of reaching an agreement and a floor amendment will be brought forward. The concept is of interest to the whole committee and we tried to keep the door open for a resolution to this bill. Vote 13-0.

Rep. Edwin Smith spoke against.

Report failed.

Rep. Edwin Smith moved Ought to Pass with Amendment and offered a floor amendment (0311h).

### **Floor Amendment (0311h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study funding sources for renovation and maintenance of the state laboratories.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the ways and means committee, one of whom shall be a member of the finance committee, and one of whom shall be a member of the public works and highways committee.

(b) Two members of the senate, appointed by the president of the senate, one of whom shall be a member of the ways and means committee and one of whom shall be a member of the finance committee.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the feasibility of implementing a facility fee for laboratory services to pay for maintenance and debt service on the renovation and expansion of the state laboratories.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Capital Appropriation; Department of Corrections; Lapse Date Extended. The \$750,000 appropriation to the department of corrections in 1997, 349:1, III(D), for the prison automation system, is hereby extended to June 30, 2005.

7 Oversight and Reporting Required. The department of corrections shall provide a report every 90 days to the legislative capital budget overview committee on the progress of the prison automa-

tion project beginning September 30, 2004, until the funds appropriated and extended for such purpose in section 6 of this act are fully expended. The reports shall include the current total project cost, funds encumbered, actual expenditures, and the estimated completion date for the project.

8 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a study committee to consider implementing a facility fee to fund the maintenance and renovation of the state laboratories. The bill also prevents the lapse of a prior appropriation to the department of corrections for a prison automation system.

Floor amendment (0311h) adopted.

Motion of Ought to Pass with Amendment adopted.

Referred to Finance.

### **HB 645-FN-A-L**, relative to the reimbursement of certain property taxes paid by qualifying private education institutions for the purpose of educational scholarship grants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeffrey D. Gilbert for Ways and Means: This bill establishes a program and procedure should funding from the general fund be available in the next biennium or thereafter to provide state scholarship aid for New Hampshire residents who attend NH private educational institutions. The scholarship grants are limited to the amount of real estate taxes paid by these institutions for their dormitories, dining rooms, and kitchens, pursuant to RSA 72:23, IV. For an institution to qualify for this program, 10 percent of its boarding students must be NH residents. This qualification component would eliminate our wealthiest private educational institutions such as Dartmouth, Phillips-Exeter Academy and St. Paul's School thereby targeting such funds as the legislature appropriates in the future to our neediest private educational institutions. This bill was amended by the Ways & Means Committee with the concurrence of the policy committee (Municipal & County Government) to eliminate any current funding. Vote 15-0.

### **Amendment (0252h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to educational scholarship grants by the postsecondary education commission to qualifying private education institutions.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Postsecondary Education Commission; Rulemaking. Amend RSA 188-D:8-a by inserting after paragraph III the following new paragraph:

IV. The procedure for application, method of disbursement, and administration of funds in the educational scholarship fund under RSA 188-D:43.

2 New Subdivision; Educational Scholarship Fund. Amend RSA 188-D by inserting after section 42 the following new subdivision:

**Educational Scholarship Fund**

188-D:43 Educational Scholarships. The postsecondary education commission shall administer a program for the granting of educational scholarship funds to qualifying private, secondary and postsecondary, educational institutions in this state as follows:

I. A private educational institution that pays property taxes on the value of the dormitories, dining rooms, and kitchens pursuant to RSA 72:23, IV, and which has New Hampshire residents comprising more than 10 percent of its boarding students, may apply for and, within the available funds, receive from the postsecondary education commission an annual sum up to the amount of such property taxes paid in the previous tax year for the purpose of funding educational scholarships for New Hampshire residents at the institution, as determined by rules of the postsecondary education commission adopted under RSA 188-D:8-a, IV.

II. Any grants made under this section shall be for the purpose of providing educational scholarships for New Hampshire residents at the qualifying institution.

III. The annual grant amount for each institutional applicant shall be limited to the lesser of the proposed amount of educational scholarship funds to be provided to New Hampshire students by the educational institution or the taxes paid in the previous tax year by such institution pursuant to RSA 72:23, IV.

IV. If at any time sufficient funds for grant awards are not available in the educational scholarship fund under RSA 188-D:44 to fund in full all grant applications qualifying under paragraph III,

then the dollar amount of the grant to each qualifying institution shall be determined and awarded from funds in the educational scholarship fund in the same proportion that the total dollar amount of each institution's qualifying application bears to the total dollar amount of all qualifying applications.

188-D:44 Fund Established. There is hereby established a special fund to be known as the educational scholarship fund. The fund shall consist of such moneys as may be appropriated for the purposes of this subdivision. The fund shall be managed by the state treasurer and shall be continually appropriated to the postsecondary education commission for the purposes of this subdivision.

3 New Subparagraph; State Accounts; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the educational scholarship fund established in RSA 188-D:44.

4 Effective Date. This act shall take effect July 1, 2005.

### AMENDED ANALYSIS

This bill establishes a program to be administered by the postsecondary education commission for educational scholarship grants to be made annually to qualifying private education institutions. Grants are to be used for state residents and are limited to the lesser of education funds provided to students by each institution or the amount of property taxes paid by the institution.

Adopted.

Report adopted.

Referred to Finance.

### BILLS REMOVED FROM CONSENT CALENDAR

**HB 1342-FN-A-L**, establishing a new system of coinage for the state. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation, if adopted, would promote the use of gold as an alternative currency. The sponsor appeared concerned that paper currency may be devalued. Essentially the bill would require the banking system to accept and redeem gold as a separate currency. The committee was having trouble believing that gold (which also may be devalued), as a currency, would have been of any benefit. Vote 11-1.

Rep. McElroy spoke against.

Rep. Hunt spoke in favor.

Adopted.

**HB 1281**, relative to the determination of the amount of taxes to be raised to support a cooperative school district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Vivian R. Clark for Ways and Means: As entered, this bill would have reversed earlier legislation that changed the payment of adequate education grants to communities that are members of a cooperative school district, from being paid before the apportionment of remaining costs to being paid after such apportionment. Both systems have created ill-will. The amendment allows each cooperative district to decide for itself how to apply member communities' grants, providing all of the members agree. Vote 14-0.

### Amendment (0243h)

Amend the bill by replacing all after the enacting clause with the following:

1 Cooperative School Districts; Certification of District Taxes; Adequate Education Grants. Amend RSA 195:14, I(b) to read as follows:

(b) The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum, in accordance with RSA 21-J:35, which may be used as a setoff against the amount appropriated when it appears to the commissioner of revenue administration such adjustment is in the best public interest. *The commissioner of the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42 as a setoff against the amount appropriated.*

2 Cooperative School Districts; Certification of District Taxes Amended. Amend RSA 195:14, I(c) to read as follows:

(c) The commissioner of revenue administration shall certify to the state department of education the total amount [~~to be apportioned among the pre-existing school districts. Such total~~]

~~shall include the adequate education cost for the district under RSA 198:38, XII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes] of taxes to be raised for the support of the cooperative school district.~~

3 Cooperative School Districts; Certification of District Taxes; Determination of Proportional Share Amended. RSA 195:14, I(d) is repealed and reenacted to read as follows:

(d) The state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the commissioner of revenue administration of its determination.

4 Cooperative School Districts; Educational Adequacy Grant Computation Amended. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. ~~[For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, XII credited against its share of the cooperative school district budget. However, cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section].~~

5 Cooperative School Districts; Formation Procedures; Computation of Adequate Education Grants. Amend RSA 195:18, III(e) to read as follows:

(e) The method of apportioning ~~[the]~~ *all* operating expenses *in excess of the amount determined necessary to provide an adequate education under RSA 198:40, I(a)* of the cooperative school district among the several preexisting districts and the time and manner of payment of such shares. Home education pupils who do not receive services from the cooperative school district, except an evaluation pursuant to RSA 193-A:6, II shall not be included in the average daily membership relative to apportionment formulas.

6 Cooperative School Districts; Formation Procedures; Adequate Education Grant Apportionment Amended. Amend RSA 195:18, IX to read as follows:

IX. The organization meeting of a cooperative school district shall be called to order by the chairperson of the cooperative school district planning board, or by the clerk-treasurer thereof, who shall serve as temporary chairperson for the first order of business which shall be the election of a moderator and of a temporary clerk, by ballot, who shall be qualified voters of the district. From and after the issuance of the certificate of formation by the board to the date of operating responsibility of the cooperative school district, such district shall have all the authority and powers of a regular school district for the purposes of incurring indebtedness, for the construction of school facilities and for such other functions as are necessary to obtain proper facilities for a complete program of education. When necessary in such interim, the school board of the cooperative school district is authorized to prepare a budget and call a special meeting of the voters of the district, which meeting shall have the same authority as an annual meeting, for the purpose of adopting the budget, making necessary appropriations, and borrowing money. Whenever the organization meeting is held on or before April 20 in any calendar year, no annual meeting need be held in such calendar year. Sums of money raised and appropriated at the organization meeting or any interim meeting prior to the first annual meeting shall be forthwith certified to the commissioner of revenue administration and the state department of education upon blanks prescribed and provided by the commissioner of revenue administration for the purpose, together with a certificate of estimated revenues, so far as known, and such other information as the commissioner of revenue administration may require. The commissioner of revenue administration shall examine such certificates and delete any appropriations which appear not made in accordance with the law, and adjust any sum which may be used as a setoff against the amount appropriated when it appears to the commissioner such adjustment is in the best public interest. *The commissioner of the department of revenue administration shall apply the total amount of all adequate education grants received pursuant to RSA 198:42 as a setoff against the amount appropriated.* The commissioner of revenue administration shall certify to the state department of education the total amount of taxes to be raised for said cooperative school district and the state department of education shall determine the proportional share of said taxes to be borne by each preexisting school district and notify the

commissioner of revenue administration of its determination. Upon certification by the commissioner of revenue administration the selectmen of each town shall seasonably assess the taxes as provided by law. The selectmen shall pay over to the treasurer of the cooperative district such portion of the sums so raised as may reasonably be required according to a schedule of payments needed for the year as prepared by the treasurer and approved by the cooperative school board, but no such payment shall be greater in percentage to the total sum to be raised by one local district than that of any other local district comprising such cooperative school district.

7 New Section: Cooperative School Districts; Alternative Method of Apportioning Costs. Amend RSA 195 by inserting after section 14 the following new section:

195:14-a Alternative Apportionment of Operating Costs.

I. As an alternative to the apportionment of operating costs set forth in RSA 195:14, the cooperative school board may fix a specific percentage of the adequate education grant amount received in a given year to be applied to the operating costs of the cooperative school district, before the apportionment of remaining cooperative school district operating costs. Such percentage shall not be less than zero percent and not more than 100 percent and shall be the same in each city or town in the cooperative school district.

II. The question shall be proposed as an article in the warrant of the next cooperative school district annual or special meeting pursuant to RSA 195:13. A majority vote in each city or town in the cooperative school district voting on the question shall be required for adoption.

III. The procedure for modification or rescission of a specified percentage shall be as set forth in this section, and shall not be subject to the provisions of RSA 195:18, III(i). A majority vote in each city or town in the cooperative school district voting on the question shall be required for modification or rescission.

8 Effective Date. This act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill requires the department of revenue administration to credit all adequate education grant payments to the cooperative school district as a whole for the purpose of determining the amount of taxes to be raised to support the cooperative school district. The bill also allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

Rep. Vivian Clark spoke against.

Amendment failed.

Rep. Vivian Clark offered a floor amendment (0268h)

#### Floor Amendment (0268h)

Amend the title of the bill by replacing it with the following:

AN ACT permitting the adoption of an alternative cost apportionment method in a cooperative school district.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section: Cooperative School Districts; Alternative Method of Apportioning Costs. Amend RSA 195 by inserting after section 14 the following new section:

195:14-a Alternative Apportionment of Operating Costs.

I. As an alternative to the apportionment of operating costs set forth in RSA 195:14, the cooperative school board may fix a specific percentage of the adequate education grant amount received in a given year to be applied to the operating costs of the cooperative school district, before the apportionment of remaining cooperative school district operating costs. Such percentage shall not be less than zero percent and not more than 100 percent and shall be the same in each city or town in the cooperative school district.

II. The question shall be proposed as an article in the warrant of the next cooperative school district annual or special meeting pursuant to RSA 195:13. A majority vote in each city or town in the cooperative school district voting on the question shall be required for adoption.

III. The procedure for modification or rescission of a specified percentage shall be as set forth in this section, and shall not be subject to the provisions of RSA 195:18, III(i). A majority vote in each city or town in the cooperative school district voting on the question shall be required for modification or rescission.

2 Effective Date. This act shall take effect July 1, 2004.



### AMENDED ANALYSIS

The bill allows a cooperative school district to adopt an alternative method of apportioning the operating costs.

Rep. Vivian Clark spoke in favor.

Floor amendment (0268h) adopted.

Report adopted and ordered to third reading.

### AMENDMENT TO HOUSE RULES

Reps. Whalley and Burling moved that the House adopt an amendment to House Rule 64, adding deadlines for legislative action in the second-year session.

Thursday, April 29, 2004

Last day to report Senate bills.

Thursday, May 6, 2004

Last day to act on Senate bills.

Thursday, May 13, 2004

Last day to form committees of conference.

Wednesday, May 19, 2004

Last day to sign-off committee of conference reports.

Wednesday, May 26, 2004

Last day to act on committee of conference reports.

Reps. Whalley and Burling spoke in favor.

Adopted.

### RESOLUTION

Rep. Giuda offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, February 19, 2004 at 10:00 a.m.

Adopted.

### LATE SESSION

#### Third reading and final passage

**HB 1227**, relative to land assessed for current use which is taken by eminent domain.

**HB 1160**, relative to the membership of the board of professional geologists.

**HB 1248-FN**, relative to the state board of nursing.

**HB 1336**, relative to the procedures for the legislative ethics committee.

**HB 1403**, extending the reporting dates of certain study committees.

**HB 1325-FN-A**, relative to additional uses of the E-Z Pass system.

**HB 1363**, establishing a policy for naming state highways, bridges, and buildings.

**HB 1141**, relative to dioxin emissions reduction and medical waste incinerators.

**HB 1254-FN**, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program.

**HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

### UNANIMOUS CONSENT

Rep. Burling addressed the House.

Without objection, the Speaker requested that Rep. Burling's remarks be printed in the Journal.

### REMARKS

Thank you, Mr. Speaker. Mr. Speaker, in 1989 when I entered this House, I had the immense good fortune of being assigned to the Judiciary Committee. A few of my colleagues from that Judiciary Committee are still here in various roles. A couple of days ago we lost someone who was a staunch member of that committee and is no longer with us. I rise to speak for just a moment about my deep and abiding affection for Alice Record and for what she brought to this institution. Alice and I were co-combatants, we sat side by side in Judiciary. We both fought each other and our opponents on a wide range of issues that came before the committee. She was a Republican of the very strongest stripe. And my apologies to those Democrats from Nashua I know, who are willing to

give me a shot in the back of the head, because I know they paid for some of Alice's strength as a Republican combatant. But you know, she was a person of such strength of character, and such courage, and such determination, and such humor, and in the end, such love. I could not fail to rise. Alice Record represented every good thing you can think about this institution. She served her constituency. She loved the state of New Hampshire. God knows, she loved Judd Gregg and his father. We argued about that from time to time. She was determined. She was a person who understood the process and dedicated every moment of her time in here to making that process as good as it could be. I'm sorry more than I can say that I haven't seen more of her in the last year, but I could not let this moment pass without commenting on her passing. New Hampshire doesn't get to see her kind every day and we who had the privilege of serving with her, will know today, we can stand with glad hearts because we had that privilege.

And Mr. Speaker, one other sad moment I would like to say because it happened yesterday. One of the things we did in Judiciary in those first years, this 1990's decade, is we worked with an extraordinary woman named Barry MacMichael who came to us with solutions to domestic violence and violence against women. She was an advocate of such extraordinary strength, and yet, she was a person who could present herself like a bolt of silk in a soft summer breeze. She died yesterday and New Hampshire will miss her terribly. I thank you very much for listening to my thoughts. We in this House are grander because these two women served this House, let's just remember them. Thank you.

### RECESS MOTION

Rep. Giuda moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 1:20 p.m.

### RECESS

**(Rep. Rogers Johnson in the Chair)**

### RESOLUTION

Rep. John Thomas offered the following: RESOLVED, late filing and drafting having been approved by a majority of the House Finance Committee, pursuant to House Rule 35 (c), in accordance with the list in the possession of the Clerk, House Bill numbered 1423 shall be by this resolution read a first and second time by the therein listed title, sent for printing and referred to the therein designated committee.

Adopted.

### INTRODUCTION OF HOUSE BILL

#### First, second reading and referral

**HB 1423-FN**, relative to reimbursement of business travel expenses for judges and court reporters and stenographers. (R. Wheeler, Hills 48: Finance)

### RECESS

**(Rep. Vivian Clark in the Chair)**

### RESOLUTION

Rep. John Flanders offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 301, 324, 337, 341, 346, 350, 358, 364, 372, 377, 391, 417, 418, 445, 457, 466, 496, 511 and Constitutional Amendment Concurrent Resolution numbered 27 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

### INTRODUCTION OF SENATE BILLS

#### First, second reading and referral

**SB 301-FN**, relative to liquor licenses. (Commerce)

**SB 324-FN-A-L**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. (Ways and Means)

- SB 337**, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals. (Fish and Game)
- SB 341-FN**, relative to prohibited methods of taking wildlife in certain fish and game laws. (Fish and Game)
- SB 346**, relative to prohibiting the operation of snowmobiles on open water. (Resources, Recreation and Development)
- SB 350**, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. (Legislative Administration)
- SB 358**, relative to incompatibility of municipal offices. (Municipal and County Government)
- SB 364**, increasing the penalties for littering. (Criminal Justice and Public Safety)
- SB 372**, relative to the definition of necessary shelter for dogs. (Criminal Justice and Public Safety)
- SB 377**, relative to damage to land by certain recreational uses. (Resources, Recreation and Development)
- SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections. (Municipal and County Government)
- SB 417**, relative to vicious dog assaults. (Criminal Justice and Public Safety)
- SB 418**, relative to voting procedures in the Hanover school district. (Education)
- SB 445**, relative to the regulation of dietitians by the board of licensed dietitians. (Executive Departments and Administration)
- SB 457**, relative to animal population control. (Environment and Agriculture)
- SB 466**, relative to records management services of a municipality. (Municipal and County Government)
- SB 496**, relative to the definition of snow traveling vehicle. (Resources, Recreation and Development)
- SB 511-FN**, relative to the penalties for rioting. (Criminal Justice and Public Safety)
- CACR 27**, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. (Election Law)

## RECESS

(Rep. Wendelboe in the Chair)

## RESOLUTION

Rep. Mooney offered the following: **RESOLVED**, the late filing and drafting of the following bills having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bills numbered 1424, 1425 and 1426 shall be by this resolution read a first and second time by the therein listed titles, sent for printing and referred to the therein designated committees. Adopted.

## INTRODUCTION OF HOUSE BILLS

### First, second reading and referral

- HB 1424-FN-A**, establishing a pharmaceutical commission and making an appropriation therefor. (Burling, Sull 19; D. Eaton, Ches 24; S. Harris, Sull 22; J. Dunn, Ches 25; Benn, Graf 17; Almy, Graf 18; Foster, Dist 13; Larsen, Dist 15: Executive Departments and Administration)
- HB 1425**, relative to food safety in restaurants. (Pilliod, Belk 31; Joseph Manning, Ches 28; Spiess, Hills 47; Gile, Merr 38; Martel, Dist 18: Executive Departments and Administration)
- HB 1426-FN**, relative to testing for the human immunodeficiency virus. (Pilliod, Belk 31; Joseph Manning, Ches. 28; Martel, Dist 18: Health, Human Services and Elderly Affairs)

## RECESS

(Speaker Chandler in the Chair)

## COMMITTEE ASSIGNMENT

Rep. Newton on Education.

## RECESS

(Rep. Scott in the Chair)

## RESOLUTION

Rep. MacKay offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 329, 330, 338, 339, 345, 351, 352, 355, 359, 366, 369,

375, 404, 416, 428, 436, 456, 470, 472, 479, 488, 493, 499, 503, 520 and 527 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF SENATE BILLS

### First, second reading and referral

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. (Executive Departments and Administration)

**SB 330-FN**, relative to creditable service of retirement system members re-employed after qualifying military service. (Executive Departments and Administration)

**SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members. (Executive Departments and Administration)

**SB 339-FN**, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses. (Criminal Justice and Public Safety)

**SB 345**, exempting payroll accounts from trustee process. (Commerce)

**SB 351-FN**, relative to concurrent enrollment at regional vocational education centers. (Education)

**SB 352-FN-L**, relative to computing school building aid grant amounts. (Education)

**SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems. (Executive Departments and Administration)

**SB 359**, relative to construction of buildings on certain pre-existing streets. (Municipal and County Government)

**SB 366-FN**, relative to the Interstate Insurance Product Compact. (Commerce)

**SB 369**, relative to examinations of insurance companies by the insurance department. (Commerce)

**SB 375**, relative to the regulation of physician assistants. (Executive Departments and Administration)

**SB 404**, establishing a committee to study the feasibility of providing statewide access to "Newline for the Blind." ( Health, Human Services and Elderly Affairs)

**SB 416**, relative to membership of the advisory committee on child care. (Children and Family Law)

**SB 428**, establishing a committee to study the protection of consumers from unfair lending practices. (Commerce)

**SB 436-FN-L**, relative to the Claremont and Newport district courts. (Judiciary)

**SB 456**, relative to record books maintained by registers of deeds. (Municipal and County Government)

**SB 470-FN**, relative to funding for the physician effectiveness program. (Executive Departments and Administration)

**SB 472**, relative to updating the terminology in statutes affecting children with special health care needs. ( Health, Human Services and Elderly Affairs)

**SB 479**, commemorating the anniversary of the founding of the United States Marine Corps. (State-Federal Relations and Veterans Affairs)

**SB 488**, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams. (Joint committee: Resources, Recreation and Development and Science, Technology and Energy)

**SB 493**, repealing examination standards for certified public accountants. (Executive Departments and Administration)

**SB 499**, making a change to the electrician licensing exemption. (Executive Departments and Administration)

**SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities. (Municipal and County Government)

**SB 520**, relative to modification of child support obligation. (Children and Family Law)

**SB 527**, relative to sessions for correction of checklists. (Election Law)

## RECESS

### (Speaker Chandler in the Chair)

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 6

Thursday, February 19, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

On this bright and glorious winter day we give thanks to You, O God of all creation, for the blessings we share which are too numerous to count. Among our blessings, we especially give thanks for freedom that releases our spirits, for courage that leads to compassion, for integrity of conscience that holds us accountable to those we serve. May the work of this House uplift the lives of all the citizens of our beloved New Hampshire and may each representative uphold with their lives the dignity, honor, and sacrifice that allows for the people's voice to be heard.

May we never forget that today men and women are risking their lives for our freedom in places far and near, and that many brave citizens have given the fullest measure for our protection; hold those who serve to protect us in the fullness of Your love, and may their service never be in vain. Amen.

Rep. Chris Christensen led the Pledge of Allegiance.

The National Anthem was sung by Ashley Shea, a senior at Concord High School and President of the Career Association of the Jobs for New Hampshire Graduates Program at Concord High School.

### LEAVES OF ABSENCE

Reps. Anderson, Carlson, David Cote, Dickinson, Stephanie Eaton, Flanagan, Robert L'Heureux, Russell, Scamman and Snyder, the day, illness.

Reps. Bartlett, Bishop, Brady, Cail, Charles Clark, Richard Cooney, Dexter, Emerton, Flayhan, Fletcher, Hollinger, Hughes, Introne, Charles Laflamme, McElroy, Moran Priestley, Tara Reardon, Soltani and Stone, the day, important business.

Rep. Messier, the day, illness in the family.

Reps. Diamond and Hamel, the day, death in the family.

### INTRODUCTION OF GUESTS

Belford Richards, guest of Rep. Foley. Susan Mooney, daughter of Rep. Irene Pratt. Suzanne Harvey, guest of Reps. Clemons, Lasky and Gorman. Carol Mulligan, guest of Reps. Vachon and Spang.

### SPECIAL GUESTS

The members of Mindstorms Mayhem, winners of the 2003 New Hampshire State FIRST LEGO League Tournament Director's Award for best overall performance in this junior robotics competition, guests of the House.

The members of Nashua High School Girls Volleyball Team, who are the 2003 Class L State Champions, guests of the House.

### COMMITTEE REPORTS

#### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 1201**, prohibiting the application of the doctrine of adverse possession or prescription when boundary lines can be proven by a preponderance of the evidence, removed by Rep. Bickford.

**HB 1376**, relative to agency fees assessed pursuant to collective bargaining agreements and representation of certain employees in grievances, removed by Rep. James Wheeler.

**HB 1299**, relative to the removal of the tax collector or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position, removed by Rep. Patten.

**HB 1346**, relative to income qualification in the elderly property tax exemption, removed by Rep. Putnam.

**HB 1209**, relative to substances added to public water supplies, removed by Rep. Hagan.

**HB 1129**, prohibiting smoking in vehicles when child passenger restraints are required, removed by Rep. Hallyburton.

Consent Calendar adopted.

**HB 1410**, relative to terminating parental rights. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret D. Hallyburton for Children and Family Law: The amendment clarifies the extent to which the Department of Health & Human Services may share personal background information about a child with the foster parent or adoptive parent. The amendment replaces the bill. Vote 13-0.

#### Amendment (0186h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the release of information to persons receiving a child for placement.

Amend the bill by replacing all after the enacting clause with the following:

1 Residential Care and Child-Placing Agency Licensing; Rulemaking Relative to the Release of Information to Placements. Amend RSA 170-E:34(g) to read as follows:

(g) The release of information to persons receiving the child which pertains to the life and safety of the child either about to be placed or already in placement, and which may pertain to the life and safety of the persons who are receiving or who have received the child for placement, *including any physical and mental health issues, history of abuse or neglect, behaviors that may be expected, and recommended ways of handling the child's problems*. For purposes of this subparagraph, placement shall mean out-of-home placements, including placements for adoption.

2 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill provides that the department of health and human services shall adopt rules requiring the department to disclose a child's social and emotional history, including physical and mental health issues, to the person with whom the child is placed.

**HB 1165**, relative to extending domestic violence protection orders. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill was brought forward primarily on the case of one respondent who was not present at a hearing for an extension of a (T.R.O.) Temporary Restraining Order. He advised the committee he was not notified of this hearing. To add to the dilemma, he was not presented with a "reason" for the extension of this T.R.O. The only answer to his questioning of why was the copy of the order and in it was the statement to the extent that "the plaintiff had met the burden of proof." The bill went on to change the evidence needed for meeting a burden of proof from good cause to preponderance of evidence. It was determined the difference, though ever so slight, would be a negligible difference in the mind of a prevailing jurist. It therefore was not changed. The amendment, which was added by the committee, upon advice of both the administrator of N.H. District Courts and the Attorney General's office, which simply states "... if after a hearing for an extension, the court grants such an extension the court shall state in writing, it's reason for the extension." This was succinctly brought to the fore when members reviewed the N.H. Supreme Court case of: *Gillmore v Fillmore, Jr.* (Dec. 11, 2001). Vote 15-1.

#### Amendment (0304h)

Amend RSA 173-B:5, VI as inserted by section 1 of the bill by replacing it with the following:

VI. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. *If, after such a hearing, the court grants the requested extension, the court shall state in writing its reason for the extension.* The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

#### AMENDED ANALYSIS

This bill requires a court granting an extension of a domestic violence order to state in writing the reason for the extension.

**HB 1173**, establishing a committee to study the discontinuation of the use of social security numbers in the criminal justice system. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: Because the subject matter of this bill is currently being reviewed by the committee studying the Integrated Criminal Justice System (J-ONE), it was felt to be unnecessary. Vote 16-0.

**HB 1239**, relative to records access by private investigators. **REFER FOR INTERIM STUDY**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill drew a considerable amount of testimony in support and opposition. A number of valid concerns were raised as to what effect, if any, this bill might have in cases involving domestic violence. A chapter study committee on the integrated criminal justice reporting system is also reviewing access of criminal justice records by other agencies. We believe that this bill needs more time for review. Vote 16-0.

**HB 1279**, establishing a committee to study the adoption and implementation of the multistate forensic DNA compact in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill is unnecessary as New Hampshire already is a member of the multistate forensic DNA compact. Vote 13-0.

**HB 1366**, relative to penalties for violation of protective orders. **INEXPEDIENT TO LEGISLATE**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill would ask New Hampshire police officers and indeed the whole of the judicial system to take a step back in time rather than to go forward in the prevention of domestic violence cases by putting a limit on the requirements for a police officer to detain a defendant who is clearly in violation of a temporary restraining order (TRO) issued by a court. These orders are written in plain, clear and very concise language, not legalese. They are not hard to read or to understand. If a defendant chooses to violate one, he/she does so with the full knowledge that the law has been violated and it is nothing less than a threat to the safety of the victim to do so. The orders are issued by judges who have the experience and knowledge not only of the law but also of the domestic abuse cycle that brings the applicant forward to apply for a TRO in the first instance. If the officer does not arrest and detain, as is presently called for under NH RSA 173:B, what message does this now send to the defendant about a court order? The committee by its vote agreed that we should not again go back in time and give discretion to a police officer to detain or not, but rather leave it as it presently is in the hands of a qualified, knowledgeable judge. Even the police officers on the beat, by testimony of various police organizations to the committee, do not wish to take this step back in time. Finally, this bill would have the penalty dropped from its present class A misdemeanor status which allows a judge a very large discretion as to the sentencing of a defendant by either to jail term as well as a fine, probation, a suspended sentence or some other punitive measure. This bill would bring the penalty down to a class B misdemeanor. This only calls for a fine in such cases. Vote 17-0.

**HB 1368**, establishing a committee to study means of interdicting and preventing the distribution of controlled substances in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill establishes a committee of three representatives and three senators to study means of interdicting and preventing the distribution of controlled substances in New Hampshire. It is the feeling of the committee that this is not the proper makeup of participants to reach a solution for this serious problem. We feel that the current makeup of local, state, regional and federal drug enforcement forces are more capable of continuing efforts to attain this objective. Some of these forces as an example include the Attorney General's Drug Task Force, N.H. State Police Drug Task Force, Municipal Police Drug Units (Streetsweep), Interstate Drug Units, New England Narcotics Intelligence Unit, D.E.A., F.B.I., State Police Narcotics Investigative Unit, and many more. They share information with each other that is highly sensitive and not available to others outside the coalition. Vote 16-0.

**HB 1385**, establishing the protection of liberty act. **INEXPEDIENT TO LEGISLATE**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill has unintended consequences that are in direct conflict with the rights and liberties of all the citizens of our state. The U.S. Constitution, in particular, the 4th Amendment and under our own N.H. Constitution, Part I, Article 19, as well as the various RSA's and case law, from over 240 years (both federal and state) that brings to bear as much weight on the protection of our liberties and what government can or cannot do as it pertains to arrests of, and searches and seizures of persons and his property. At the

public hearing, the committee heard a lot of good testimony for and against this bill. It should be added, however, that even the speakers for it, almost to a person, admitted that something should be taken out here, something added here. The bill despite noble and good intentions, would, in the long run, do more to protect the criminal, and the terrorist, than it would to protect the citizens of our great state. The committee further believed, no one, is against the liberties or the protection of those liberties but, if one were to take just the issue of search and seizures, which there are ample exceptions to a warrantless search. Some being: plain view, consent, exigent circumstance or in the case of a person who commits a felony, the police can arrest then and there, if they have (PC) Probable Cause. None of the aforementioned are taken into account in this bill and therefore could be construed as non-existing. This, then would severely hamper the law enforcement community to respond quickly to stop criminal conduct. The bill is vague, and likely would not stand up to constitutional scrutiny. Some acts, as defined in its present form actually would criminalize a police officer for doing that which is now legal, in the eyes of the law and courts. Finally, this bill would subject the citizens to punishment that is not proportional to the crime and would, in some instances, deny a citizen of the writ of habeas corpus. Vote 15-0.

**HB 1391-FN**, relative to motor vehicle violations. **REFER FOR INTERIM STUDY**

Rep. E. Albert Wear for Criminal Justice and Public Safety: The intent of this bill is to establish an administrative procedure for contested minor traffic violations that are currently heard in district court to be handled by the Dept. of Safety Administrative License Hearing Officer. The bill, as written, posed more problems than it would solve; however, the agency and the courts offered testimony that this would be a good opportunity to review the whole administrative license hearing process. Vote 16-0.

**HB 1407**, granting limited law enforcement authority to certain federal officers stationed in New Hampshire. **REFER FOR INTERIM STUDY**

Rep. James H. Oliver for Criminal Justice and Public Safety: After hearing testimony by federal and local law enforcement authorities, and conferring with the sponsor, this bill is referred to interim study to enable federal, state and local law enforcement agencies to determine ways to ensure inter-agency cooperation under authority of state and federal statutes. Vote 16-0.

**HB 1155**, establishing a committee to study the feasibility of implementing a training program for school board members. **OUGHT TO PASS WITH AMENDMENT**

Rep. John R.M. Alger for Education: The bill, as submitted, called for a study committee on the need to require school board members to take courses needed for school board work. The committee heard testimony that such courses were readily available and often taken, so found the study was not needed nor was an amendment requiring such courses to be taken or a majority of a school board vote against it. Therefore, the bill was amended to offer technical corrections to existing law under RSA C:9-a,b, the alternative budget procedure for citizen voting of the school administrative unit budget as supported as needed by the Department of Revenue Administration. Vote 11-0.

**Amendment (0407h)**

Amend the title of the bill by replacing it with the following:

AN ACT clarifying alternative budget adoption procedures in school administrative units.

Amend the bill by replacing all after the enacting clause with the following:

1 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, I(a) to read as follows:

(a) Each school district, within a school administrative unit that is composed of 2 or more [town] school districts, may vote to adopt the provisions of RSA 194-C:9-b to determine the means for adopting the school administrative unit budget by placing a question on the warrant of their next annual school district meeting. The question shall be voted on in accordance with the ballot and voting procedures in effect in that school district.

2 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, I(c) to read as follows:

(c) If a majority of the voters *voting in each of* the school districts within the school administrative unit approve the question, then RSA 194-C:9-b shall apply starting with the next annual school district meeting of the school districts within that school administrative unit, and shall continue until rescinded. *The results of the vote shall be certified to the secretary of the school administrative unit board.*



3 School Administrative Units; Alternative Budget Procedure. Amend RSA 194-C:9-a, III to read as follows:

III. In order to rescind the adoption of RSA 194-C:9-b, each school district within the school administrative unit shall comply with the petition procedure set forth in RSA 197:6 and upon such compliance, a question shall be placed on the warrant of the next annual school district meeting. The wording of the question shall be: "Shall the voters of the \_\_\_\_\_ school district within school administrative unit number \_\_\_\_\_ rescind the adoption of RSA 194-C:9-b, relative to the alternative school administrative unit budget adoption procedure, and adopt the provisions of RSA 194-C:9 as the method for governing the adoption of the school administrative unit budget?" If a majority of the voters *voting in each of the school districts* within the school administrative unit approve the question, then the provisions of RSA 194-C:9 shall govern the procedure for adopting the school administrative unit budget in such school administrative unit. ***The results of the vote shall be certified to the secretary of the school administrative unit board.***

4 School Administrative Units; Alternative Budget Procedure. RSA 194-C:9-b is repealed and reenacted to read as follows:

**194-C:9-b Alternative Budget Procedure.**

I. In a school administrative unit composed of 2 or more school districts which has adopted the provisions of RSA 194-C:9-a, the school administrative unit budget adopted according to RSA 194-C:9, I shall be placed before the voters of each school district of that school administrative unit in a separate warrant article at the annual school district meeting. Notwithstanding RSA 32 and RSA 40:13, the budget adopted by the school administrative unit board shall not be amended or changed in any way prior to the vote. The school district moderator shall cause a vote to be taken and the results shall be given to the secretary of the school administrative unit board who shall accumulate the total vote for all the school districts within the school administrative unit. The secretary of the school administrative unit board shall announce the results and certify the same to the department of revenue administration. A majority vote shall result in adoption of the budget proposed by the school administrative unit board. If the article receives less than a majority vote, the budget amount accepted shall be that of the previous year adjusted for continuing contracts. Wording of the warrant article shall be as follows:

"Shall the voters of \_\_\_\_\_ (name of school district) \_\_\_\_\_ adopt a school administrative unit budget of \$\_\_\_\_\_ for the forthcoming fiscal year in which \$\_\_\_\_\_ is assigned to the school budget of this school district?"

This year's adjusted budget of \$\_\_\_\_\_, with \$\_\_\_\_\_ assigned to the school budget of this school district, will be adopted if the article does not receive a majority vote of all the school district voters voting in this school administrative unit."

II. This section shall not apply to a school administrative unit that includes a city.

5 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill clarifies the law regarding alternative budget adoption procedures in school administrative units.

**CACR 26**, relating to the apportionment of representatives. Providing that representation in the house of representatives shall be as equal as one person, one vote, as defined by certain federal courts will permit. **INEXPEDIENT TO LEGISLATE**

Rep. Charles F. Weed for Election Law: The committee believed that although the resolution would qualify "one person one vote" by referring to certain federal courts, testimony before the committee indicated that only one decision regarding floterials, Boyer vs. Gardner, 1982 was cited. A copy of the full decision was not provided to the committee. The committee is being guided by HR 6, 2003 which requires as small representative districts as possible within the Supreme Court guidelines of "one person one vote." Vote 17-0.

**HB 1217**, relative to apportioning state representative districts for Hillsborough county. **INEXPEDIENT TO LEGISLATE**

Rep. Jane Clemons for Election Law: This bill was not needed as the city's and towns' issues were resolved in HB 1292. Vote 16-0.

**HB 1362**, relative to state representative districts in Grafton county. **INEXPEDIENT TO LEGISLATE**

Rep. Andrew Dorsett for Election Law: The intent of this bill has been previously incorporated in HB 264, and is therefore no longer required. Vote 17-0.

**HB 1369**, relative to state representative district 67. **INEXPEDIENT TO LEGISLATE**

Rep. Steve Vaillancourt for Election Law: This redistricting proposal breaks up the fourteen-member megadistricts established by the court in Strafford County. The committee has been committed to the idea of creating smaller districts when consistent with the percentage parameters allotted under the one-man, one-vote principle. This plan separates Rochester into a nine-member district, and leaves Somersworth and Rollinsford in a five-member district. It makes sense. However, since the move was already accomplished with the passage of HB 264 in January, the committee feels this bill is unnecessary. Vote 15-0.

**HB 1373**, relative to Grafton county representative districts. **INEXPEDIENT TO LEGISLATE**

Rep. Sandra Reeves for Election Law: The intent of this bill was taken care of in HB 264 which the House already adopted. The sponsor asked the committee to find HB 1373 inexpedient to legislate for that reason. Vote 17-0.

**HJR 23**, relative to the process for choosing United States Senators. **INEXPEDIENT TO LEGISLATE**

Rep. Steve Vaillancourt for Election Law: The United States Constitution was amended in 1913 to call for the direct election of United States Senators by the people-at-large in all 50 states. Proponents of this legislation would take us back to the days when state legislatures selected United States senators. Obviously, such a change can only occur through the apparatus set out in the federal Constitution. The New Hampshire House is hardly the place to begin that process, but even if it were, this committee would be opposed to the idea. In an age of 24-hour news coverage, it seems cynical at best to suggest that people are incapable of choosing their own senators. Proponents argue that we are a republic rather than a democracy, but there is nothing inherently wrong with a Republican promoting Democratic ideas such as direct elections. On a practical level, election of senators by state legislatures would prove difficult since the two houses of state legislatures are often controlled by different parties (in 11 of the 50 states, currently). Such a proposal would most certainly lead to highly partisan choices. For example, is it likely that the Republican controlled North and South Dakota Legislatures would select Democratic senators? No, yet all four Dakota senators are currently Democrats. Similarly, although the Maine Legislature is Democratically controlled, the people of that state have chosen two Republican senators. There was no support in the committee for this anti-democratic proposal, and the committee rejects a sponsor's contention that democracy amounts to "mob rule". Vote 13-2.

**HB 1231-FN**, relative to the state flag. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: The committee heard testimony on a flag design as well as considered the design outline in the bill. After considering both and realizing that there are other designs being considered in the senate, we felt a house committee was not trained or qualified to design flags. This issue may be better suited with a statewide commission who could take public input and consult with architect and historians. Vote 16-1.

**HB 1355**, changing the name of the sweepstakes commission to the lottery commission. **OUGHT TO PASS**

Rep. Anne Marie Irwin for Executive Departments and Administration: This bill came at the request of the commission. As a result of a natural evolution, the name change would more accurately reflect the work of the commission. It would also unify the New England states by all using the term "lottery." Vote 14-3.

**HB 1404**, prohibiting the release of information by university of New Hampshire officials in cases where students have contact with university of New Hampshire police. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill would provide special protection from public disclosure for a specific group of people: adult (18 years of age or older) students attending the University of New Hampshire. Passage of this bill at this time could

be perceived as undermining the current efforts of the trustees and administration of the University System of New Hampshire to bring about responsible reactions by members and non-members of the student body to on-campus and off-campus events of a sporting or other nature. Vote 16-1.

**HB 812**, relative to state acquisition of privately-owned airports. **OUGHT TO PASS**

Rep. Elizabeth S. Hager for Finance: This bill narrows the current law relative to potential acquisition of airports and would thus narrow the potential fiscal impact. Vote 21-0.

**HB 1223**, establishing a committee to study state reimbursement to municipalities for emergency responses along interstate highways. **INEXPEDIENT TO LEGISLATE**

Rep. Elizabeth S. Hager for Finance: The appropriate state departments, Safety and Transportation, already work with communities about response to interstate highways. A legislative study committee would be redundant. Vote 20-1.

**HB 1126**, relative to obstructing or hindering hunting, fishing, or trapping of fish and game. **INEXPEDIENT TO LEGISLATE**

Rep. Randy J. Perkins for Fish and Game: The committee was opposed to the language of this bill. The bill attempts to make improvements to the current law but falls short of eliminating any perceived flaws and creates problems for landowners. While the current law has some questionable reference to "designated hunting areas" this bill would not solve the problem. Vote 13-0.

**HB 1237**, allowing deer hunting with a primitive flintlock muzzleloader. **INEXPEDIENT TO LEGISLATE**

Rep. Randy J. Perkins for Fish and Game: This bill would have added a special hunting season in January for antlered deer and tom turkeys to be taken with a primitive flintlock muzzleloader. This type of muzzleloader is already allowed during the regular hunting season as well as the muzzleloader hunting season. The committee felt it was inappropriate to extend the hunting seasons for deer and turkeys. The Fish and Game Department currently sets the hunting seasons to be better able to manage the wildlife populations and to protect these resources in the best manner possible. Vote 10-3.

**HB 1249-FN**, relative to the recreational taking of lobster by scuba diving. **REFER FOR INTERIM STUDY**

Rep. Gary S. Hopper for Fish and Game: The committee on Fish and Game believes allowing the residents of New Hampshire to share in this treasured resource has great merit, however, because of possible unintended consequences believes the issue needs further study. Vote 12-1.

**HB 1313**, relative to establishing a spring season for bear baiting. **INEXPEDIENT TO LEGISLATE**

Rep. David S. Woodward for Fish and Game: The committee heard overwhelming opposition to this bill as presented. The current methods of controlling the states black bear population are working according to the Fish and Game Department. The taking of bear in the spring when the overall physical condition of the bears is not as healthy as in the fall and when sows are trying to raise their cubs would be detrimental to the population. Vote 12-0.

**HB 1314**, relative to the taking of deer by crossbow. **INEXPEDIENT TO LEGISLATE**

Rep. Betsy McKinney for Fish and Game: Originally the crossbow hunting bill passed with the understanding that crossbow would be limited to the firearms season, as compatible with the skills needed to operate a crossbow. This bill would allow crossbows in the bow and arrow (archery) season and was opposed by bow and arrow hunters and the Fish and Game Commission. Vote 12-0.

**HB 1420**, relative to requirements of the fish and game department before a coastal area may be closed to fishing of marine species. **REFER FOR INTERIM STUDY**

Rep. Betsy McKinney for Fish and Game: This bill as presented was intended to protect the New Hampshire fishing industry from Federal and State closure of fishing areas. Currently, New Hampshire Fish and Game holds public hearings on rules and regulations that affect the New Hampshire 3 mile limit but federal laws regulate the rest of the fishing area. The New Hampshire Commercial Fisherman's Association testified against the bill and cited that 90% of commercial fishing is done outside the 3 mile limit. The committee felt that this subject matter might be of further interest as the most recent Federal rulings are still being worked out. Certainly, if something can help the commercial or sport fishermen, the committee would be agreeable. Vote 12-0.

**HB 1135**, relative to appointment of the chief justice of the superior court. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert H. Rowe for Judiciary: Currently, the Chief of the Superior Court is appointed for the period of that person's judicial term; namely, life with retirement at 70 years of age. That could give that person a tenure as Chief for decades. The committee felt that it is in the best interests of the judiciary and citizens of the state to have a five year term which would bring new ideas, proceedings and practices forward. This is an important managerial, administrative and policy-setting position. The judge, appointed for a five year term could be appointed for an additional term. The bill would take effect at the conclusion of the current Chief Justice's term. Vote 16-0.

**Amendment (0230h)**

Amend the bill by replacing section 2 with the following:

2 Contingency. Section 1 of this act shall take effect upon the date the next vacancy occurs in the position of superior court chief justice.

**HB 1191-FN**, relative to court proceedings. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Craig for Judiciary: This bill would have made changes to certain court proceedings. One of the sponsors appeared at the committee hearing and stated that he wished to withdraw the bill and that the other sponsors were in accord. Vote 12-0.

**HB 1218**, relative to criminal threatening by public servants. **INEXPEDIENT TO LEGISLATE**

Rep. James W. Craig for Judiciary: This bill would create a civil cause of action for criminal threatening by public servants. "Public Servant" includes officers and employees of the state including judges, legislators, consultants, and jurors. New Hampshire law already provides for criminal penalties for such conduct as well as for civil actions for emotional distress. Additionally, the bill would allow a court to remove an offending official from public office and to set a time period that the official should be barred from holding public office or employment. The committee felt that this was a questionable proposition. Finally, the bill allowed for punitive damages which are not allowed for any other cause of action in New Hampshire. Vote 13-0.

**HB 1242**, establishing a committee to study protecting law enforcement officers and others from public disclosure of their personal information. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Wheeler for Judiciary: The goal of this bill is admirable, but the committee believes that the scope of the subject matter needs to be studied would be more than a mere study committee could handle. We thought the more appropriate method might possibly be to have a study commission where the expertise of a large and varied number of people could be utilized. The committee also believes the Right to Know study commission now existing could consider some of the purposes of the study proposed by this bill. Vote 14-0.

**HB 1286**, relative to oaths of office. **INEXPEDIENT TO LEGISLATE**

Rep. Harry M. Haytayan for Judiciary: Current law requires oaths by public officials. This bill would unnecessarily require oaths from employees involved in ministerial functions. Such a requirement is unnecessary. Vote 13-0.

**HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program. **OUGHT TO PASS**

Rep. Lee G. Slocum for Labor, Industrial and Rehabilitative Services: While family and disability leave programs tend to be available with large employers, this committee will investigate how such a benefit might be made available for small businesses on a voluntary basis. Vote 12-0.

**HB 1298**, relative to dispute resolution within the context of public employee labor relations. **OUGHT TO PASS WITH AMENDMENT**

Rep. Russell Bridle for Labor, Industrial and Rehabilitative Services: The prime sponsor requested the amendment to this bill which establishes a committee to study local dispute resolution for public employee labor relations. The committee felt that this had merit. Vote 12-1.

**Amendment (0168h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study local dispute resolution for public employee labor relations.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study dispute resolution within the context of public employee labor relations and the feasibility of creating enabling legislation to allow towns to establish a dispute resolution process for their employees.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study dispute resolution within the context of public employee labor relations and the feasibility of creating enabling legislation to allow towns to establish a dispute resolution process for their employees. The committee shall also study any issues that might arise relative to the public employee labor relations board and ways to resolve them.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to study local dispute resolution for public employee labor relations.

**SB 431**, prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts. **OUGHT TO PASS**

Rep. Lee Slocum for Labor, Industrial and Rehabilitative Services: Testimony was provided to the committee that some New Hampshire towns and some large corporations have recently been forcing subcontractors to assume liability for workers compensation for contractor employees. This bill prohibits this abuse. Other states, such as Texas and Louisiana, have already passed legislation similar to this. Vote 12-1.

**HB 1307-FN**, relative to review of final proposed rules under the administrative procedures act. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Legislative Administration: This bill raises issues similar to those raised by the Ad Hoc Committee on Administrative Rules that were incorporated in HB 230 (dealing with JLCAR). HB 230 establishes a committee to study how to improve the processes of the joint legislative committee on administrative rules and to make certain revisions to RSA 541-A, the Administrative Procedure Act. The committee and sponsor agreed that rolling the issues in this bill into HB 230 was the best avenue to take. Vote 13-0.

**HB 1308-FN**, relative to lobbying activities by state employees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul C. Smith for Legislative Administration: State employees often appear before legislative committees offering testimony on behalf of the departments they are employed by. This bill exempts state employees acting in official capacity from laws and fees regulating lobbyists. It also provides that when these employees are in this capacity, they must display their state identification. The prime sponsor does not object to the committee amendment. Vote 14-0.

#### Amendment (0424h)

Amend the bill by replacing sections 1 and 2 with the following:

1 Lobbyists; Registration. Amend RSA 15:1 to read as follows:

15:1 Registration. Any person who is employed for a consideration by any other person, *except the state of New Hampshire*, in a representative capacity to promote or oppose directly or indirectly any legislation pending or proposed before the general court shall first enter his *or her*

appearance with the secretary of state in a book to be kept for that purpose, which book shall be open to public inspection. Such entry shall show the full names of employer and employed, their respective residences, the usual occupation of each, the date and character of the employment or agreement therefor, the duration of the employment if it can be determined, and the special subjects of legislation, if any, to which the employment relates. If the employment varies from time to time, such entries shall be varied accordingly. All registrations required under this section shall expire on December 1.

2 New Paragraph; Lobbyists; Name Tag; State Employees. Amend RSA 15:2-a by inserting after paragraph II the following new paragraph:

III. State employees appearing in their official capacity before any legislative meeting or hearing for the purpose of promoting or opposing directly or indirectly any legislation pending or proposed before the general court shall wear their employee identification badges.

### AMENDED ANALYSIS

This bill exempts state employees from the lobbyist registration law.

#### **HB 1127, relative to consideration of road improvements in property appraisals. INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill would require tax assessors to consider road improvements in the determination of property value for purposes of assessing property taxes. Testimony from the Department of Revenue Administration (DRA) indicated road conditions are already taken into consideration for determining property value. The value of a property is determined through sales of similar properties. A property value may be enhanced or diminished by the condition of the road passing by or leading to the property. One buyer might like the rugged isolation of a property for the purposes of privacy while another might want to offer less for the same property because the road conditions do not permit quick and comfortable travel. Market value with sales comparisons is the cornerstone of determining value. Also, the subject of road conditions is either a local issue or a state issue depending on the road. Highway funds and the improvement of state roads are a topic for other legislative committees. Local roads must be addressed by the governmental body. Vote 15-0.

#### **HB 1137, relative to the use of impact fees. INEXPEDIENT TO LEGISLATE**

Rep. David L. Buhlman for Municipal and County Government: RSA 674:21,V specifically excludes the use of impact fees to acquire public open space. Attempting to use impact fees to purchase open space is not consistent with the original intent of those fees, which was to share the capital improvement costs necessitated by a proposed development in a measurable form. Impact fees were not intended to be a fundraising source. The acquisition of open space is the responsibility and privilege of the community as a whole and should not be placed solely on the shoulders of new developments, since this could be perceived as a tax only on developers. The committee recognizes that there are other mechanisms now available to support the purchase of open space. Vote 9-3.

#### **HB 1151, relative to membership on the zoning board of adjustment. INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: This bill would prohibit "governing board" members (selectmen, councilors, alderman, commissioners), from sitting on a Zoning Board of Adjustment (ZBA). The committee felt that this bill would be contrary to existing statutory provisions that allow for multiple board membership and would reduce the pool of volunteers willing to serve on the ZBA. Vote 11-0.

#### **HB 1152, relative to the salaries of elected town officials. INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: The committee heard testimony regarding an elected town official in a municipality who had his salary reduced after a vote by the town meeting. This practice of salary reduction after the legislative body has voted to approve the salary appears to be limited and not a statewide issue. After reviewing the court case of Kondrat v. Freedom School Board (1994) and also reviewing RSA 31:9-b which states that all "elected and appointed officials of a municipal corporation shall be paid monies due them for services rendered as approved by the vote of the municipality" the committee felt that the bill's intent was already covered in statute and there was no need to codify the ruling in the mentioned court case. Vote 14-0.

**HB 1175**, relative to the use of an official ballot referenda as an optional form of town meeting. **INEXPEDIENT TO LEGISLATE**

Rep. David L. Buhlman for Municipal and County Government: An amendment was received that would limit the frequency of when the question of adopting or rescinding the official ballot form of government, commonly known as SB2, can be placed on the warrant for any of the elections by the local political subdivision for the following three years. Although this bill could reduce ongoing contention on the form of government in some municipalities, the committee felt that attempts by citizens to change the form of government should not have time restrictions placed on them. Vote 11-0.

**HB 1182-FN**, allowing municipalities to adopt a property tax exemption for long-time resident elderly persons. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill would allow towns and cities to adopt a property tax exemption for property owners 65 years of age or older who have resided in the same location for 20 consecutive years. Although the bill is enabling, the committee felt that significant cost shifting would occur, requiring those under the age of 65 years of age to pick up the tax burden even for those elderly residents who could afford their taxes. The committee realizes that our elderly residents need options to ensure that they are able to stay in their homes. One lesser known option is available in the tax deferral request in RSA 72:38-a. Elderly exemptions were reorganized in SB-45 last year. The committee wants to wait to review the total impact of the revised exemptions effect the entire local community. Vote 15-0.

**HB 1185**, relative to the adoption of amendments to articles proposed in the first session in official ballot proceedings. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas Gillick for Municipal and County Government: This bill would have allowed the placing of the original or the amended article with a third choice of "neither" on the official ballot in an official ballot town. The committee felt that 3 choices would lead to confusion with respect to the interpretation of majority and/or plurality. The committee felt that only having one choice on a warrant article would be the least confusing to the voter. The committee looked at the use of plurality in election law and realized that the definition is clear. The deliberative session already provides the petitioners with the full opportunity to have their positions made clear. Vote 12-0.

**HB 1189-FN-L**, increasing the property tax credit for service-connected total disability. **INEXPEDIENT TO LEGISLATE**

Rep. Laurie Boyce for Municipal and County Government: The current tax credit for service-connected total disability is \$700. This bill would have increased that credit automatically to \$2400 with no vote of the local municipality and in violation of Part 1, Article 28-a of the New Hampshire Constitution. Additionally this bill allows the optional tax credit to be increased for those individuals who have service-connected total disability or those who are double amputee, or paraplegic, because of service-connected injury, or the surviving spouse of such a person from \$1400 to \$4800 of the yearly tax credit. Passage of SB 45 (2003) RSA 72:29(a) authorized the local community to increase this optional tax credit from \$701 up to \$2000. There are many municipalities that are opting to increase the veterans' tax credits pursuant to the new legislation and the committee wants to wait to review the tax impact on these political subdivisions. Vote 15-0.

**HB 1214-FN**, relative to the penalty for filing an erroneous default budget. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill makes filing an erroneous default budget a misdemeanor. The abuses of submitting inflated default budgets is a subject with which the committee is very familiar. In an attempt to correct this problem, a form created by the Department of Revenue Administration (DRA) has been created to assist the governing body in properly crafting a default budget. At present there are two bills (HB 85 and HB 285), that are actively addressing the intent of this bill and are in the Senate. Vote 11-0.

**HB 1255**, relative to the procedure for calling for a special town or school district meeting. **INEXPEDIENT TO LEGISLATE**

Rep. David L. Buhlman for Municipal and County Government: Currently "in towns with fewer than 10,000 inhabitants, 50 or more voters or one-quarter of the voters in town (whichever is fewer) and in towns with 10,000 or more inhabitants upon the written application of 5 percent of the

registered voters in the town” have the ability to petition for a special meeting before the next annual meeting. Also “a special meeting of a school district shall be held whenever” the school board or “50 or more voters of the school district (whichever is less)” make written application for the meeting. This bill would have increased the percentage in towns with less than 10,000 to one-fifth of the voters in the town, increased to one-fifth of the voters in a school district and yet not change the percentage in “towns with 10,000 or more inhabitants”. There were no compelling reason given for this bill. Vote 13-0.

**HB 1304-L**, relative to notice for zoning rehearings. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill requires that abutters be notified for a rehearing of a zoning decision in the same manner as for the original hearing. The prime sponsor realized that the subject of this bill is addressed in HB 713 which is presently being heard in another committee and requested that this bill be made ITL. Vote 11-0.

**HB 1331**, allowing recipients of the National Defense Service Medal to be eligible for the veterans’ property tax credit. **INEXPEDIENT TO LEGISLATE**

Rep. Peter B Schmidt for Municipal and County Government: In order to be eligible for the veterans credit, a veteran has to have served during a specific time period or in a specific theater of operation as listed in RSA 72:28, IV. The intent of this bill is to include those veterans who have received the National Defense Service Medal. Testimony was given that indicated this new eligibility would increase the number of veterans able to receive this tax-credit. The committee also recognized that the State Federal Relations and Veterans Affairs is working on HB 1372 which is looking at the definitions of certain terms relating to military service. As with the other exemptions and credits bills heard by Municipal & County Government (HBs 1182, 1189, 1333, 1346), the legislature passed an extensive change in both elderly exemptions and veterans credits last year. The Committee wants to wait and review the impact of these changes prior to increasing any eligibility. Vote 15-0.

**HB 1333-L**, extending the veterans’ property tax credit to all honorably discharged veterans. **INEXPEDIENT TO LEGISLATE**

Rep. Robert Brundige for Municipal and County Government: This bill would have added all “honorably discharged veterans” to the local veterans’ property tax credit. The Municipal and County Government extensively reorganized RSA 72:28 and 29-a last year in SB 45 which became effective April 1, 2003. Many towns have proposed to upgrade the veterans’ tax credits to be voted on this year at town meetings. The committee feels that we should wait to see the impact on the property owners at the local level prior to expanding the veterans’ tax base. We also heard from the NH Veterans Advisory Committee that they are in the process of advocating for HB 1372 which is the “Definition of Veteran” bill presently being worked upon in State-Federal Relations and Veterans Affairs. That bill defines “veteran” and certain other terms relating to military service. The committee fully supports the veterans’ tax credit and the property tax credit for service-connected total disability. However, it is important to be attuned to the tax impacts on the entire community and also be aware of other policy bills that are related to veterans and are currently being addressed in this legislature. Vote 15-0.

**HB 1357**, relative to cluster zoning and the village plan alternative. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: This bill would require planning boards to automatically allow the “village plan” alternative be considered when “cluster zone” applications were filed. This committee felt that this was contrary to local option control. The “village plan” alternative is still relatively new as an innovative land use control and should be implemented on its own merit. Vote 10-1.

**HB 1358-FN**, requiring municipal auditors to be bonded, and relative to audits within political subdivisions. **INEXPEDIENT TO LEGISLATE**

Rep. Kenneth H. Gould for Municipal and County Government. This bill calls for the Department of Revenue Administration (DRA) auditors to assume some work now done by private auditors. The fiscal note indicated new costs for additional state employees at DRA of well over \$1,000,000. It also requires that all auditors shall be bonded. While town clerks, tax collectors, town managers and town treasurers are already bonded, the committee determined that auditors need not be bonded and the state need not take all this work away from the private sector public accountants. Vote 11-0.



**HB 1359-FN-L**, relative to notice requirements for public hearings on certain zoning changes. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill would require municipalities to notify property owners affected by zoning proposals or amendments. While the committee thinks communication is a valuable and useful tool for municipalities, this is clearly a 28-a issue that could require municipalities to spend considerable money and cause volumes of work. Vote 11-0.

**HB 1377-L**, relative to the repeal of municipal ordinances by petition. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill attempted to establish a petition process in municipalities with a city council form of government whereby 100 registered voters could petition to repeal a municipal or zoning ordinance. If the council affirmed the petitioned ordinance, or after the planning board receives the petition from the governing body relative to a zoning ordinance, a public hearing would be held and it would be placed on a ballot for the next city election. The committee recognized that municipalities already have adequate public notices regarding municipal and zoning ordinances. In addition, a municipality with a city council form of government has already decided that a representative form of government is more efficient. In a small town, changes in ordinances are made at town meetings. This bill attempted to combine two forms of government and create a third that could create a city council form of government decided by referendum. As a result, the committee agreed that this is unnecessary. Vote 13-0.

**HB 1392**, relative to preapplication review of projects submitted to a local planning board. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill requires a planning board to vote on a pre-application within 30 days and complete the review within 60 days. The majority of the committee felt that formalizing an informal process that now produces a non-binding, non-appealable decision was totally unnecessary. HB 761, which was retained by Municipal and County Government last year, and is currently in the Senate, revised some of the procedures of the pre-application process. Vote 12-0.

**HB 1261**, relative to closing a certain rest area on the F. E. Everett turnpike. **OUGHT TO PASS WITH AMENDMENT**

Rep. Edwin O. Smith for Public Works and Highways: The bill as introduced would have closed the rest area on the F. E. Everett Turnpike in Nashua. The Committee heard testimony that the rest area was underutilized. However, before ordering it closed, as the original bill proposed for, the committee felt that more study was needed. The sponsor's amendment establishes a legislative study committee to look at alternative uses for the rest area. Vote 14-0.

**Amendment (0083h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study alternative uses for a certain rest area located near the F. E. Everett Turnpike in Nashua.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study alternate uses for the rest area known as the Nashua welcome center located near exit 6 of the F. E. Everett Turnpike in Nashua. The committee may consider options including, but not limited to, leasing the property, selling the property, using the property to meet other state needs, or using the property as a state liquor store.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a committee to study alternative uses for a certain rest area located on the F.E. Everett Turnpike in Nashua.

#### **HB 1164**, relative to moorings on Bow Lake. **REFER FOR INTERIM STUDY**

Rep. Richard T. Cooney for Resources, Recreation and Development: This bill would add Bow Lake to the moorings program which presently covers the six (6) largest lakes in New Hampshire. Bow Lake is a medium size lake of 1160 acres. The committee heard both sides of the proposal at the public hearing but felt a first hand visit to the lake would be desirable before making a decision. The committee recommends Interim Study to enable a summertime review by the committee. Vote 13-1.

#### **HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads. **OUGHT TO PASS WITH AMENDMENT**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill clarifies that authority to regulate local highways rests with the governing body as conferred by RSA 41:11 (towns) and RSA 47:17 (cities). RSA 215-A:15 states that "towns or cities may regulate" highways. In limited instances RSA 215-A:15 was being interpreted to give this authority to the Town meeting. With passage of HB 1166 the perceived discrepancy will be resolved to retain highway authority with the governing body. The bill also clarifies that when a Class VI highway is designated for use by snow traveling vehicles, access by abutting landowners or their agents may not be prohibited. The amendment adds permission for maintenance vehicles on roads that are not maintained by the municipality, and requires the governing body to hold a public hearing before changing the approved use of such roads. Vote 14-0.

### Amendment (0224h)

Amend the bill by replacing section 1 with the following:

1 Operation of OHRVs; Local Authority. Amend RSA 215-A:6, IX to read as follows:

IX. Pursuant to RSA 215-A:15, ~~[towns and cities]~~ **city or town councils and boards of selectmen** may authorize the use of sidewalks and class IV, class V or class VI highways and bridges, or portions thereof, for use by OHRVs. The operation of OHRVs may also be allowed on sidewalks adjacent to class I, II, III, or III-a highways pursuant to RSA 236:56, II(e). Operators of OHRVs using said roads, or portions thereof, shall keep to the extreme right and shall yield to all conventional motor vehicle traffic. The bureau, or its designee, shall so post such highways where authorized. *Following a duly noticed public hearing, except in the case of an emergency closure, such city or town authorities may change the allowable usage of a class IV, class V, or class VI highway by OHRV's by giving notification to the supervisor of the bureau and removing any signs that no longer apply.*

Amend the bill by replacing section 3 with the following:

3 Operation of Snow Traveling Vehicles. RSA 215-A:7, II is repealed and reenacted to read as follows:

II. In those instances where a municipality does not maintain a class IV, class V, or class VI highway for winter use by conventional motor vehicles, the city or town council or board of selectmen may authorize the use of such a highway by snow traveling vehicles; or, alternatively, it may authorize dual use of such highway by snow traveling vehicles and by those conventional highway vehicles that are being used solely for access to property abutting such highway. Vehicles of any type being used for law enforcement, firefighting, rescue and road maintenance shall have unrestricted access to such highways in either case. The bureau or its designee shall post said highways in accordance with the status established by municipal authorities as provided in this

paragraph. Following a duly noticed public hearing, except in the case of an emergency closure, such authorities may change the status of a highway by giving notification to the supervisor of the bureau and removing any signs that no longer apply.

**HB 1205**, establishing a committee to study alternative waste disposal systems. **INEXPEDIENT TO LEGISLATE**

Rep. Kevin L. Camm for Resources, Recreation and Development: This bill would have required a study by the Department of Environmental Services (DES) to issue permits for alternative human disposal systems on other than an experimental basis without requiring the installation of a full sized septic system. Currently the Department allows "alternative waste disposal systems". They do require the applicant to demonstrate that the property can accommodate a conventional disposal system. The department already provides for such installations. Vote 11-1.

**HB 1379**, relative to boating on certain lakes and ponds by disabled persons. **INEXPEDIENT TO LEGISLATE**

Rep. David H. Russell for Resources, Recreation and Development: This bill would have allowed disabled persons to operate vessels with electric motors on bodies of water that have been closed to motorized vessels. Many of these small ponds have been closed for decades to motors for environmental reasons. The committee is certainly sympathetic to disabled persons and their recreational use of our natural resources. However, this bill had many problems, such as defining disabled person, how enforcement would be carried out and by what agency. The committee felt that this bill was not workable at this time. Vote 14-0.

**HJR 22**, concerning foliage protection. **INEXPEDIENT TO LEGISLATE**

Rep. David M. Lawton for Resources, Recreation and Development: HJR 22 is a resolution which encourages forestry officials to monitor the health of the trees which produce the brilliant fall colors in New Hampshire's forests. Public testimony at the hearing indicated that issues related to foliage and the forest inventory are already being monitored by state and federal forestry officials. This resolution is not necessary. Vote 13-0.

**HB 1167**, requiring any driver to have headlights on when continuously operating windshield wipers during inclement weather. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Letourneau for Transportation: This bill would require any driver to have headlights on when operating windshield wipers during inclement weather. The committee understands the sponsors' intent and passion for this bill, but felt that almost everyone uses their lights during inclement weather and most new automobiles now have DRL's (daytime running lights) and automatic lights. It is also common sense that a driver use their lights during bad weather and RSA 266:31 states that "Every motor vehicle driven during the period from ½ hour after sunset to ½ hour before sunrise, and whenever rain, snow, or fog shall interfere with the proper view of the road, shall display at least tow lighted lamps on the front". The committee felt that this bill is not warranted. Vote 12-0.

**HB 1179-FN**, relative to driver education training reimbursement. **OUGHT TO PASS**

Rep. Kimberley S. Casey for Transportation: This bill relates to the distribution of driver education funds that are available through RSA 263:52. This bill seeks to distribute those funds not only to public high school driver certification programs, but also be made available to students who take classes from certified instructors and their approved programs outside the public high school curriculum. Because many high schools have long waiting lists and the goal is to make certain that all students get proper certified instruction in a timely fashion, and because the instruction is more costly for students unable to avail themselves of the public high school programs, this law allows a more fair distribution of aforementioned funds to offset the cost for those students. As indicated, the program now is self-funded through RSA 263:52, requiring that the license fee and vanity plate fee be used to fund the driver education programs. This new law will also be self-funding, with the remaining lapsing into the general fund as is current law. Vote 12-0.

**HB 1183**, relative to transporting manufactured housing. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Letourneau for Transportation: This bill establishes the maximum height and length of manufactured or modular home that can be transported on the highways of New Hampshire. The amendment is the work product of the stakeholders in this issue. The amendment also estab-

lishes the rulemaking authority for the permitting process involved with the New Hampshire Department of Transportation. Additionally, the amendment includes an immunity clause for state liability due to the negligent conduct of persons transporting such housing as authorized by this chapter. This bill brings New Hampshire into compatibility with the northeast states for transporting modular or manufactured homes. Vote 13-0.

#### Amendment (0326h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to transporting manufactured housing or modular buildings.

Amend the bill by replacing all after the enacting clause with the following:

1 Height; Manufactured Housing and Modular Buildings. Amend RSA 266:10 to read as follows: 266:10 Height.

*I. No vehicle, except a vehicle transporting manufactured housing or modular buildings, whose total height including load is greater than 13 feet, 6 inches, shall be driven on the ways of this state.*

*II. No manufactured housing or modular building whose total height is greater than 14 feet, 6 inches, shall be transported on the ways of this state. Transport of a manufactured housing unit or modular building that exceeds a total height of 13 feet, 6 inches shall require a non-police escort, equipped in accordance with any rules established by the department of transportation under RSA 21-L:12-a.*

2 New Paragraph; Length; Manufactured Housing or Modular Building. Amend RSA 266:11 by inserting after paragraph III the following new paragraph:

IV. For manufactured housing or modular building transport, 110 feet including the transport vehicle.

3 New Paragraph; Manufactured Housing or Modular Building. Amend RSA 266:24 by inserting after paragraph II the following new paragraph:

III. The commissioner of transportation shall not grant a permit for the transport of manufactured housing or modular buildings that exceeds the limits established in RSA 266:10, II or RSA 266:11, IV.

4 New Paragraphs; Manufactured Housing or Modular Building Escort Vehicles. Amend RSA 21-L:12-a by inserting after paragraph XIV the following new paragraphs:

XV. Non-police escort vehicles for the transport of manufactured housing or modular buildings as authorized by RSA 266:10, II.

XVI. Establishing specific pre-approved routes for the transport of manufactured housing or modular building as authorized by RSA 266.

XVII. Establishing criteria to determine the need for police escort vehicles for the transport of manufactured housing or modular buildings as authorized by RSA 266.

5 New Section; Limitation on Actions. Amend RSA 266 by inserting after section 24-b the following new section:

266:24-c The state shall not be liable for damage caused by negligent conduct of the person transporting manufactured housing or modular buildings as authorized under this chapter.

6 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill establishes the maximum height and length of manufactured homes or modular buildings that can be transported on the highways of New Hampshire.

**HB 1243**, prohibiting the collection of biometric data. **OUGHT TO PASS WITH AMENDMENT** Rep. Robert J. Letourneau for Transportation: This bill will prohibit the state from collecting, obtaining or retaining any personal biometric data in connection with motor vehicle registration or operation, or in connection with driver licensing. However, this shall not apply to the collection or retention of fingerprints, or the purpose of enforcing laws relating to serious traffic offenses, including, but not limited to DWI, reckless driving, negligent homicide with a motor vehicle or operating as a habitual offender, or any motor vehicle offense for which custody arrest was made and bail is required. The committee felt that future legislative options concerning policy would be protected, and as a result, included any decisions concerning the use of biometric data. Vote 13-0.

**Amendment (0199h)**

Amend RSA 260:10-b as inserted by section 1 of the bill by replacing it with the following:

**260:10-b Collection of Biometric Data Prohibited.**

I. The state shall not collect, obtain, or retain any biometric data in connection with motor vehicle registration or operation, or in connection with driver licensing. "Biometric data" includes, but is not limited to:

(a) Fingerprints, palm prints, and other methods for measuring or recording ridge pattern or fingertip characteristics.

(b) Facial feature pattern characteristics.

(c) Behavior characteristics of a handwritten signature, such as shape, speed, pressure, pen angle, or sequence.

(d) Voice data used for comparing live speech with a previously-created speech model of a person's voice.

(e) Iris recognition data containing color or texture patterns or codes.

(f) Keystroke dynamics, measuring pressure applied to key pads.

(g) Hand geometry, measuring hand characteristics, including the shape and length of fingers, in 3 dimensions.

(h) Retinal scans, reading through the pupil to measure blood vessels lining the retina.

(i) DNA/RNA.

II. Paragraph I shall not apply to:

(a) The collection or retention of fingerprints or the purpose of enforcing laws relating to serious traffic offenses, including, but not limited to, driving while intoxicated, reckless driving, negligent homicide with a motor vehicle, operating after being declared an habitual motor vehicle offender, or any motor vehicle offense for which a physical custody arrest was made and bail is required.

(b) The taking or use of signatures, computerized images, likenesses, or photographs, in any form used by the department prior to the effective date of this subparagraph, for licensing purposes, provided that the taking or use is consistent with the provisions of RSA 260:14.

**HB 1258-FN, establishing supporting public schools number plates. INEXPEDIENT TO LEGISLATE**

Rep. Kimberly S. Casey for Transportation: This bill would establish a special license plate to celebrate and encourage support for public education. Unfortunately, notwithstanding the good intention of such a plate, it has been the practice of the committee to disallow any additional special plates, save those already established, however worthy the cause. It is the consensus of the committee that this is a public safety issue, and additionally, a monetary issue, as there is a large initial investment for the production of these plates, which cannot be justified in the current budget climate. Vote 12-0.

**HB 1401-FN, limiting the use of traffic signal preemption devices. OUGHT TO PASS WITH AMENDMENT**

Rep. George N. Katsakiores for Transportation: These devices have been used for years by police, fire, ambulances and some Department of Transportation plow trucks. They allow the vehicle equipped with such a device to change a traffic light from red to green. These devices are now being offered to the public on line. The accidents that could be caused by use of these devices from irresponsible drivers could be horrific. Vote 12-0.

**Amendment (0220h)**

Amend RSA 265:15, II(c) as inserted by section 1 of the bill by replacing it with the following:

(c) *This paragraph shall not apply to:*

(1) *Federal, state, or local law enforcement personnel while in the course of their official duties.*

(2) *Firefighters while in the course of their official duties.*

(3) *Emergency medical services personnel while in the course of their official duties.*

(4) *State or municipal department of transportation or highway personnel while in the course of their official duties.*

**AMENDED ANALYSIS**

This bill prohibits the use of traffic signal preemption devices, except for official use by federal, state, or local law enforcement personnel, firefighters, emergency medical services personnel, and state or municipal department of transportation or highway personnel.

**SB 458**, relative to private driving instruction and exhibition facilities. **OUGHT TO PASS**

Rep. Robert J. Letourneau for Transportation: This bill defines driving instruction and exhibition facilities. These are facilities that provide instruction and training for safe driving skills and adverse weather driving techniques. These facilities can also exhibit vintage motor vehicles. This bill clarifies where these facilities fit with respect to the current law, so that existing state law, which applies to professional spectator facilities, does not apply to private instructional facilities. Vote 13-0.

### REGULAR CALENDAR

**HB 1315**, relative to the disclosure of the identity of the person filing a report of suspected child abuse. **INEXPEDIENT TO LEGISLATE**

Rep. Karen K. McRae for Children and Family Law: The committee had an amendment to correct a fatal flaw in the bill with regard to disclosure of the reporter of suspected child abuse or neglect. The amendment failed and the bill itself was then deemed inexpedient to legislate. Vote 10-5. Adopted.

**HB 1178-FN**, relative to sales of tobacco products to persons under 21 years of age.

**INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: Although the goal of this proposed legislation is noble, (increasing the smoking age from 18 to 21), the committee believes that unless and until there is a concerted effort by local law enforcement officers to enforce the current law, there is no benefit in increasing the age to 21. In the view of the committee, other than the drinking age of 21, 18 is the legal age in New Hampshire to sign contracts, be drafted and otherwise be considered the age of majority. Vote 15-0. Adopted.

**HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Deanna P. Rush for the Majority of Education: This bill requires local school boards to develop and implement a policy recommending that each pupil participate in developmentally appropriate daily physical activity and exercise as a way to minimize certain childhood health problems including obesity. It was further noted that current research and information indicates that there is a definite relationship between physical activity and academic success. All the testimony on this bill was in support of it. The amendment directs the State Board of Education (instead of the State Department of Education) to adopt rules pursuant to RSA 541-A relative to a model physical activity policy and to distribute this policy to each public school in the state. This bill has the support of the Governor Council on Health and Physical Activity, the American Heart Association and the American Cancer Association. The Department of Education states that this bill will have no fiscal impact on state, county and local revenue or expenditures. Vote 12-3.

Rep. Barbara Hagan for the Minority of Education: The minority agrees that physical activity is important for everyone. However, the bill does not coordinate its recommendations with an overall health curriculum. Requiring the school districts to develop and adopt a plan may raise a 28-a issue. Further, the Department of Education already has the ability and authority to issue a rule to recommend daily exercise in the schools. And finally, the legislation requires nothing from the schools in the way of actually accomplishing the goals.

### Majority Amendment (0025h)

Amend RSA 189:11-a, VI as inserted by section 2 of the bill by replacing it with the following:

VI. The state board of education shall adopt rules, pursuant to RSA 541-A, relative to a model physical activity policy and distribute such policy to each public school in the state.

### AMENDED ANALYSIS

This bill requires the local school board and the state board of education to develop and implement through rules a policy recommending that each pupil participate in developmentally appropriate daily physical activity and exercise as way of minimizing certain childhood health problems. Majority amendment adopted.

Majority committee report adopted and ordered to third reading.

**HB 1269**, establishing a citizens' legislative redistricting advisory board. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Mark S. Derby for the Majority of Election Law: This legislation would establish a citizen's legislative redistricting advisory board composed of twenty members from the ten counties with ten members appointed by the leader of the majority party in the House of Representatives and ten appointed by the leader of the minority party in the House of Representatives. Their partisan counterparts in the Senate would assist in the appointment. The proposed board's role would be solely advisory, through it would be required to prepare a complete redistricting plan. The majority believed that HB 1269 would add an additional layer of acrimony and partisanship to the redistricting process, since expertise in redistricting principles invariably follows a vested interest in the outcome of partisan elections or some other narrow agenda for those citizens who would most likely be candidates for appointment to the board. In addition, redistricting is a uniquely legislative and constitutional function in which elected members of the legislature are well qualified, and they also possess intimate knowledge of the towns and districts they represent. While redistricting can be complex, it is not a subject so far outside the understanding of legislators as to require an outside advisory board. The majority is ever mindful of the problems that caused redistricting to be done by the Supreme Court, and in light of that the whole committee has endeavored to work in a more bipartisan manner this session. That has resulted in HB 264 and significant improvements over the court-drafted plan. The majority believes that the lessons learned in 2002 will benefit future legislatures and governors when they must redistrict again, rendering the proposed board unnecessary. Vote 11-5.

Rep. Charles F. Weed for the Minority of Election Law: The minority of the committee believed that insulating the next decennial redistricting from partisan sitting legislators would serve to increase both the appearance and reality of fairness in the redistricting process. The advisory board would provide a draft similar to the Court's 2002 plan, which could be adjusted by the legislature. The appearance of fairness is important in maintaining the very real importance of New Hampshire as an exemplar for the rest of the nation. The minority believes that the experience in the previous two decennial redistricting created unnecessary divisiveness and rancor between the major parties. This would be a better way.

Rep. Weed spoke against.

Rep. Derby spoke in favor.

Rep. Weed requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 225 NAYS 111

### YEAS 225

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Boyce, Laurie	Dewhirst, Glenn
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Laflam, Robert
Lawton, David	Nedeau, Stephen	Pilliod, James	Rice, Thomas
Thomas, John	Wendelboe, Fran	Whalley, Michael	

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Merrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

#### CHESHIRE

Fish, Douglas	Hunt, John	Laurent, John	Liebl, George
Royce, H Charles	Smith, Edwin		

#### COOS

King, Frederick	Pratt, Leighton	Richardson, Herbert	Stohl, Eric
Tholl, John Jr	Woodward, David		

#### GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Dudley, Terri	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ham, Bonnie	Ingbretson, Paul	Maybeck, Margie	Naro, Debra
Sorg, Gregory	Williams, Burton		

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Balboni, Michael	Balcom, John	Barry, J Gail	Batula, Peter
Beaton, William	Bergeron, Jean-Guy	Bergin, Peter	Bouchard, David
Brundige, Robert	Bruno, Pierre	Buhlman, David	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Coughlin, Pamela	Dionne, Kimberley	Dokmo, Cynthia
Drisko, Richard	Elliott, Larry	Gonzalez, Carlos	Goyette, Peter Jr
Graham, John	Greenberg, Gary	Hagan, Barbara	Hall, Charles
Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul	Hawkins, Ken
Haytayan, Harry Jr	Hinkle, Peyton	Holden, Randolph	Hopper, Gary
Hunter, Bruce	Jasper, Shawn	Kurk, Neal	LaFlamme, Paul
Lawrence, James	Lessard, Rudy	Luebckert, Bernard	McHugh, Claire
McRae, Karen	Mercer, Robert	Mooney, Maureen	Mosher, William
O'Brien, Lori	Ober, Russell III	Pappas, Marc	Pepino, Leo
Price, Pamela	Reeves, Sandra	Ross, Lawrence	Rowe, Robert
Scanlon, Michael	Slocum, Lee	Spiess, Paul	Stepanek, Stephen
Tahir, Saghir	Tate, Joan	Vaillancourt, Steve	Wheeler, James

**MERRIMACK**

Daniels, Eric	Dunne, Christopher	Field, William	Foley, Albert
Fraser, Leo Jr	Hager, Elizabeth	Hess, David	Jacobson, Alf
Kenison, Leon	L'Heureux, Stephen	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Oliver, James	Reed, Dennis

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Clark, Vivian
Dalrymple, Janeen	DiFruscia, Anthony	Dodge, Robert	Duffy, James
Dumaine, Dudley	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas	Gleason, John
Gould, Kenneth	Griffin, Mary	Headd, James	Hutchinson, Karen
Ingram, Russell	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
Manning, John	McCann, Richard	McKinney, Betsy	McMahon, Charles
Moore, Benjamin	Morris, Richard	Noyes, Richard	O'Neil, Michael
Packard, Sherman	Putnam, Ed II	Quandt, Matthew	Rausch, James
Robertson, Carl	Roessner, Kurt	Ruffner, Walter	Smith, Donald
Smith, Paul	Tufts, J Arthur	Vallone, Matthew	Varrell, Thomas
Waterhouse, Kevin	Weare, E Albert	Weldy, Norman Jr	Weyler, Kenneth
Wiley, Robert	Winchell, George	Zolla, William	

**STRAFFORD**

Albert, Russell	Bemis, Alan	Bickford, David	Brown, Julie
Campbell, W Packy	Cataldo, Sam	Dunlap, Patricia	Easson, Timothy
Harrington, Michael	Heon, Richard	Johnson, Nancy	Keans, Sandra
Musler, George	Newton, Clifford	Scott, David	Twombly, James
Woods, Phyllis			

**SULLIVAN**

Flint, Gordon Sr	Jones, Constance	Leone, Richard	Rodeschin, Beverly
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**NAYS 111  
BELKNAP**



**CARROLL**

None

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Manning, Joseph	Meader, David	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Pratt, John	Richardson, Barbara	Robertson, Timothy
Slack, Pamela	Tilton, Anna	Webber, Amy	Weed, Charles

**COOS**

Mears, Edgar	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Hammond, Lee	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter		

**HILLSBOROUGH**

Baroody, Benjamin	Brassard, Paul	Buckley, Raymond	Clayton, William
Clemons, Jane	Cote, Peter	Crane, Elenore Casey	Gibson, John
Gorman, Mary	Haley, Robert	Irwin, Anne-Marie	Jean, Claudette
Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline	Lasky, Bette
Leach, Edward	Lefebvre, Roland	Malloy, Chris	Martin, Mary Ellen
Michon, Stephen	Movsesian, Lori	Pappas, Christopher	Pilotte, Maurice
Schulze, Joan	Shaw, Barbara	Sullivan, Francis	Sullivan, Peter
Sweeney, Cynthia			

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	French, Barbara
Gile, Mary	Hamm, Christine	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Rush, Deanna	Seldin, Gloria
Wallner, Mary Jane			

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Corbin, Corey
McEachern, Paul	Norelli, Terie	Pantelakos, Laura	Pitts, Jacqueline
Shultis, Elizabeth	Splaine, James		

**STRAFFORD**

Berube, Roger	Callaghan, Frank	Creteau, Irene	Grassie, Anne
Hofemann, Roland	Kaen, Naida	Knowles, William	Miller, Joseph
Pelletier, Arthur	Rollo, Deanna	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Vachon, Dennis	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra

Phinizy, James  
and the majority committee report was adopted.

Rep. Dennis Fields did not vote and wished to be recorded in favor.

**HB 1292**, apportioning state representative districts. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Richard B. Drisko for the Majority of Election Law: The intent of this bill was to follow the bipartisan parameters for redistricting established in HB 264. Testimony on both bills asked the

committee to seek more districts and smaller districts to provide better access to the representatives by the citizens. HB 1292 as amended accomplishes that goal without using floterials, but following all the other criteria for redistricting in a bipartisan effort. Much time was spent in committee to discuss all points of view. In addition to increasing the number of districts from 88 to 103 this bill returned a 28th seat to the city of Nashua. Vote 14-3.

Rep. Charles F. Weed for the Minority of Election Law: The minority believes that Nashua clearly deserves another representative. However, the process of deciding which 3 Nashua Wards should be combined to make a 10 member district was not fully deliberated in order that the committee could come to a consensus as we had regarding the other counties. There was meaningful and sincere discussion that Wards 4, 6 and 8 shared more common interests than combining Wards 5, 8 and 9 as in the majority version.

### **Majority Amendment (0378h)**

Amend the bill by replacing all after the enacting clause with the following:

1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:

662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:

		I. Belknap County	
District No. 1	Center Harbor		
	New Hampton		1
District No. 2	Sanbornton		
	Tilton		2
District No. 3	Meredith		2
District No. 4	Laconia Wards 1-6		5
District No. 5	Alton		
	Barnstead		
	Belmont		
	Gilford		7
District No. 6	Gilmanton		1
		II. Carroll County	
District No. 1	Bartlett		
	Chatham		
	Conway		
	Hale's Location		
	Hart's Location		
	Jackson		4
District No. 2	Albany		
	Eaton		
	Madison		1
District No. 3	Freedom		
	Ossipee		
	Sandwich		
	Tamworth		3
District No. 4	Moultonborough		
	Tuftonboro		
	Wolfeboro		4
District No. 5	Brookfield		
	Effingham		
	Wakefield		2
		III. Cheshire County	
District No. 1	Gilsum		
	Surry		
	Westmoreland		1
District No. 2	Alstead		
	Marlow		

	Nelson	
	Roxbury	
	Stoddard	
	Sullivan	
	Walpole	3
District No. 3	Keene Wards 1-5	7
District No. 4	Chesterfield	
	Hinsdale	
	Winchester	4
District No. 5	Fitzwilliam	
	Richmond	1
District No. 6	Harrisville	
	Marlborough	
	Swanzy	
	Troy	4
District No. 7	Dublin	
	Jaffrey	
	Rindge	4
	IV. Coos County	
District No. 1	Atkinson & Gilmanton Academy Grant	
	Cambridge	
	Clarksville	
	Colebrook	
	Columbia	
	Dix's Grant	
	Dixville	
	Dummer	
	Errol	
	Erving's Location	
	Millsfield	
	Odell	
	Pittsburg	
	Second College Grant	
	Stewartstown	
	Wentworth's Location	2
District No. 2	Carroll	
	Dalton	
	Jefferson	
	Kilkenny	
	Lancaster	
	Northumberland	
	Randolph	
	Stark	
	Stratford	
	Whitefield	4
District No. 3	Bean's Grant	
	Bean's Purchase	
	Chandler's Purchase	
	Crawford's Purchase	
	Cutt's Grant	
	Gorham	
	Green's Grant	
	Hadley's Purchase	
	Low and Burbank's Grant	
	Martin's Location	
	Pinkham's Grant	

	Sargent's Purchase	
	Shelburne	
	Thompson and Meserve's Purchase	1
District No. 4	Berlin Wards 1-4	
	Milan	
	Success	4
	V. Grafton County	
District No. 1	Littleton	
	Lyman	2
District No. 2	Bethlehem	
	Franconia	1
District No. 3	Bath	
	Easton	
	Landaff	
	Lincoln	
	Lisbon	
	Livermore	
	Monroe	
	Sugar Hill	
	Waterville Valley	2
District No. 4	Thornton	
	Woodstock	1
District No. 5	Benton	
	Haverhill	
	Piermont	
	Warren	2
District No. 6	Campton	
	Ellsworth	
	Orford	
	Rumney	
	Wentworth	2
District No. 7	Hebron	
	Plymouth	2
District No. 8	Alexandria	
	Ashland	
	Bridgewater	
	Bristol	
	Groton	
	Holderness	3
District No. 9	Hanover	
	Lyme	4
District No. 10	Canaan	
	Dorchester	
	Enfield	
	Grafton	
	Orange	3
District No. 11	Lebanon Wards 1-3	4
	VI. Hillsborough County	
District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2

District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	
	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
District No. 15	Manchester Ward 8	3
District No. 16	Manchester Ward 9	3
District No. 17	Manchester Wards 10, 11, and 12	8
District No. 18	Bedford	6
District No. 19	Merrimack	8
District No. 20	Nashua Ward 1	3
District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Ward 4	3
District No. 24	Nashua Ward 6	3
District No. 25	Nashua Ward 7	3
District No. 26	Nashua Wards 5, 8, and 9	10
District No. 27	Hudson	
	Litchfield	
	Pelham	13
VII. Merrimack County		
District No. 1	Danbury	
	New London	
	Wilmot	2
District No. 2	Franklin Wards 1-3	
	Hill	3
District No. 3	Newbury	
	Sutton	1
District No. 4	Hopkinton	
	Warner	
	Webster	3
District No. 5	Bradford	
	Henniker	2
District No. 6	Andover	
	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
	Salisbury	6

District No. 7	Chichester	
	Pembroke	3
District No. 8	Allenstown	
	Epsom	
	Pittsfield	4
District No. 9	Hooksett	4
District No. 10	Concord Wards 1, 2, and 3	4
District No. 11	Concord Wards 4, 8, 9, and 10	5
District No. 12	Concord Wards 5, 6, and 7	4
District No. 13	Bow	
	Dunbarton	3

## VIII. Rockingham County

District No. 1	Candia	
	Deerfield	
	Northwood	
	Nottingham	5
District No. 2	Raymond	3
District No. 3	Auburn	
	Londonderry	9
District No. 4	Salem	
	Windham	13
District No. 5	Derry	11
District No. 6	Atkinson	2
District No. 7	Chester	
	Danville	
	Sandown	4
District No. 8	Hampstead	
	Kingston	
	Plaistow	7
District No. 9	Epping	
	Fremont	3
District No. 10	Brentwood	1
District No. 11	East Kingston	
	Newton	2
District No. 12	Newfields	
	Newmarket	3
District No. 13	Exeter	
	North Hampton	
	Stratham	8
District No. 14	Hampton Falls	
	Kensington	
	Seabrook	
	South Hampton	4
District No. 15	Hampton	5
District No. 16	Newington	
	Portsmouth Wards 1-5	7
District No. 17	Greenland	1
District No. 18	New Castle	
	Rye	2

## IX. Strafford County

District No. 1	Rochester Wards 1-6	9
District No. 2	Rollinsford	
	Somersworth Wards 1-5	5
District No. 3	Barrington	
	Farmington	
	Middleton	

	Milton	
	New Durham	
	Strafford	8
District No. 4	Dover Wards 1 and 2	3
District No. 5	Dover Wards 3 and 4	3
District No. 6	Dover Wards 5 and 6	3
District No. 7	Durham	
	Lee	
	Madbury	6
	X. Sullivan County	
District No. 1	Cornish	
	Grantham	
	Plainfield	2
District No. 2	Croydon	
	Goshen	
	Newport	
	Springfield	
	Washington	3
District No. 3	Sunapee	1
District No. 4	Claremont Wards 1-3	
	Lempster	
	Unity	5
District No. 5	Acworth	
	Charlestown	
	Langdon	2

2 Application. The changes in state representative districts established by this act shall not affect constituencies or terms of office of representatives presently in office. The state representative districts established by this act shall be in effect for the purpose of electing representatives at the 2004 state general election. If there shall be a vacancy in a state representatives district for any reason prior to the 2004 state general election, the vacancy shall be filled by and from the same state representative district that existed for the 2002 state general election. No provision of this act shall affect in any manner any of the proceedings of the membership of the house of representatives of the general court that assembled for a biennial session in January 2003.

3 Contingency. If HB 264 of the 2004 regular session becomes law, sections 1 and 2 of this act shall take effect at 12:01 a.m. on the effective date of HB 264. If HB 264 does not become law, sections 1 and 2 of this act shall take 60 days after its passage.

#### 4 Effective Date.

I. Sections 1 and 2 of this act shall take effect as provided in section 3 of this act.

II. The remainder of this act shall take effect upon its passage.

Reps. Weed and Burling spoke against.

Rep. Vaillancourt spoke in favor and yielded to questions.

Rep. Whalley spoke in favor.

Majority amendment adopted.

Rep. Malloy offered a floor amendment (0391h).

### Floor Amendment (0391h)

Amend RSA 662:5, VI as inserted by section 1 of the bill by replacing it with the following:

	VI. Hillsborough County	
District No. 1	Antrim	
	Hancock	
	Hillsborough	
	Windsor	3
District No. 2	Bennington	
	Deering	
	Francestown	
	Greenfield	2

District No. 3	Greenville	
	New Ipswich	
	Peterborough	
	Sharon	4
District No. 4	Lyndeborough	
	Mont Vernon	
	New Boston	
	Temple	
	Wilton	4
District No. 5	Brookline	
	Hollis	
	Mason	4
District No. 6	Amherst	
	Milford	8
District No. 7	Goffstown	
	Weare	8
District No. 8	Manchester Ward 1	3
District No. 9	Manchester Ward 2	3
District No. 10	Manchester Ward 3	3
District No. 11	Manchester Ward 4	3
District No. 12	Manchester Ward 5	3
District No. 13	Manchester Ward 6	3
District No. 14	Manchester Ward 7	3
District No. 15	Manchester Ward 8	3
District No. 16	Manchester Ward 9	3
District No. 17	Manchester Wards 10, 11, and 12	8
District No. 18	Bedford	6
District No. 19	Merrimack	8
District No. 20	Nashua Ward 1	3
District No. 21	Nashua Ward 2	3
District No. 22	Nashua Ward 3	3
District No. 23	Nashua Ward 4	3
District No. 24	Nashua Ward 6	3
District No. 25	Nashua Ward 7	3
District No. 26	Nashua Wards 5, 8, and 9	10
District No. 27	Hudson	
	Litchfield	10
District No. 28	Pelham	3

Rep. Whalley spoke against and yielded to questions.

Rep. Malloy spoke in favor, and requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0391h).

**YEAS 120 NAYS 228**

**YEAS 120  
BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

Allen, Peter  
Meador, David  
Pratt, John  
Smith, Edwin

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Tilton, Anna

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy  
Webber, Amy

Espieffs, Peter  
Pratt, Irene  
Slack, Pamela

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

Woodward, David



**GRAFTON**

Benn, Bernard  
Hammond, Lee  
Sorg, Gregory

Bleyler, Ruth  
Nordgren, Sharon

Cooney, Mary  
Scovner, Nancy

Densmore, Edward  
Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin  
Buhlman, David  
Gibson, John  
Hinkle, Peyton  
Katsiantonis, Thomas  
Lessard, Rudy  
Movsesian, Lori  
Sullivan, Francis

Bergeron, Jean-Guy  
Clayton, William  
Gorman, Mary  
Hopper, Gary  
Kopka, Angeline  
Malloy, Chris  
Pappas, Christopher  
Sullivan, Peter

Brassard, Paul  
Clemons, Jane  
Hagan, Barbara  
Irwin, Anne-Marie  
Lasky, Bette  
Martin, Mary Ellen  
Schulze, Joan  
Sweeney, Cynthia

Buckley, Raymond  
Cote, Peter  
Haley, Robert  
Jean, Claudette  
Leach, Edward  
Michon, Stephen  
Shaw, Barbara  
Tate, Joan

**MERRIMACK**

Bouchard, Candace  
Gile, Mary  
Osborne, Jessie  
Rush, Deanna

Brueggemann, Donald  
Kenison, Leon  
Owen, Derek  
Seldin, Gloria

DeStefano, Stephen  
Leber, William  
Perkins, Randy  
Wallner, Mary Jane

French, Barbara  
Maxfield, Roy  
Potter, Frances

**ROCKINGHAM**

Allen, Mary  
Corbin, Corey  
Norelli, Terie  
Quandt, Matthew

Blanchard, MaryAnn  
Itse, Daniel  
Noyes, Richard  
Shultis, Elizabeth

Casey, Kimberley  
Kelley, Jane  
Pantelakos, Laura  
Splaine, James

Coes, Betsy  
McEachern, Paul  
Pitts, Jacqueline  
Vallone, Matthew

**STRAFFORD**

Berube, Roger  
Grassie, Anne  
Miller, Joseph  
Rous, Emma  
Taylor, Katherine

Bickford, David  
Hofemann, Roland  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Callaghan, Frank  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Vachon, Dennis

Creteau, Irene  
Knowles, William  
Rollo, Deanna  
Spang, Judith  
Wall, Janet

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Phinizy, James

Burling, Peter  
Franklin, Peter

Cloutier, John  
Harris, Joseph

Donovan, Thomas  
Harris, Sandra

**NAYS 228****BELKNAP**

Ahern, Omer Jr  
Fitzgerald, James  
Lawton, David  
Thomas, John

Allen, Janet  
Flanders, Donald  
Nedeau, Stephen  
Wendelboe, Fran

Boyce, Laurie  
Holbrook, Robert  
Pilliod, James  
Whalley, Michael

Dewhirst, Glenn  
Laflam, Robert  
Rice, Thomas

**CARROLL**

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Hatch, Paul  
Mock, Henry  
Stevens, Stanley

**CHESHIRE**

Fish, Douglas  
Manning, Joseph

Hunt, John  
Royce, H Charles

Laurent, John  
Weed, Charles

Liebl, George

**COOS**

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton

Richardson, Herbert

**GRAFTON**

Akins, Ralph  
Dorsett, Andrew  
Giuda, Robert  
Naro, Debra

Alger, John  
Dudley, Terri  
Ham, Bonnie  
Sokol, Hilda

Almy, Susan  
Gilman, G Michael  
Ingbretson, Paul  
Williams, Burton

Barker, Robert  
Gionet, Edmond  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Cernota, Albert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Greenberg, Gary  
Harrington, Paul  
Hunter, Bruce  
Kurk, Neal  
Luebkert, Bernard  
Mooney, Maureen  
Pappas, Marc  
Reeves, Sandra  
Slocum, Lee  
Tahir, Saghir

Allan, Nelson  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Chabot, Robert  
Crane, Elenore Casey  
Drisko, Richard  
Gonzalez, Carlos  
Hall, Charles  
Hawkins, Ken  
Infantine, William  
LaFlamme, Paul  
McHugh, Claire  
Mosher, William  
Pepino, Leo  
Ross, Lawrence  
Souza, Kathleen  
Vaillancourt, Steve

Allen, Timothy  
Balcom, John  
Bergin, Peter  
Carter, Jeffrey  
Christensen, D L Chris  
Desmarais, Vivian  
Elliott, Larry  
Goyette, Peter Jr  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Jasper, Shawn  
Lawrence, James  
McRae, Karen  
O'Brien, Lori  
Pilotte, Maurice  
Rowe, Robert  
Spiess, Paul  
Wheeler, James

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Carter, Mark  
Christiansen, Lars  
Dionne, Kimberley  
Fields, Dennis  
Graham, John  
Hansen, Ryan  
Holden, Randolph  
Johnson, Lionel  
Lefebvre, Roland  
Mercer, Robert  
Ober, Russell III  
Price, Pamela  
Scanlon, Michael  
Stepanek, Stephen  
Wheeler, Robert

**MERRIMACK**

Blanchard, Elizabeth  
Davis, Frank  
Foley, Albert  
Hess, David  
Langer, Ray  
McCormick, Tom

Clarke, Claire  
DeJoie, John  
Fraser, Leo Jr  
Jacobson, Alf  
Lockwood, Priscilla  
Nutter, Edward

Currier, David  
Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
MacKay, James  
Oliver, James

Daniels, Eric  
Field, William  
Hamm, Christine  
L'Heureux, Stephen  
Marple, Richard  
Reed, Dennis

**ROCKINGHAM**

Belanger, Ronald  
Camm, Kevin  
DiFruscia, Anthony  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
McMahon, Charles  
Packard, Sherman  
Roessner, Kurt  
Tufts, J Arthur  
Welch, David  
Winchell, George

Bicknell, Elbert  
Carson, Sharon  
Dodge, Robert  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Johnson, Rogers  
Langley, Jane  
Manning, John  
Moore, Benjamin  
Putnam, Ed II  
Ruffner, Walter  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

Bridle, Russell  
Clark, Vivian  
Duffy, James  
Francoeur, Sheila  
Gleason, John  
Hutchinson, Karen  
Katsakiores, George  
Langone, John  
McCann, Richard  
Morris, Richard  
Rausch, James  
Smith, Donald  
Waterhouse, Kevin  
Weyler, Kenneth

Cady, Harriet  
Dalrymple, Janeen  
Dumaine, Dudley  
Gilbert, Jeffrey  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, Phyllis  
Letourneau, Robert  
McKinney, Betsy  
O'Neil, Michael  
Robertson, Carl  
Smith, Paul  
Weare, E Albert  
Wiley, Robert

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Heon, Richard  
Scott, David

Bemis, Alan  
Dunlap, Patricia  
Johnson, Nancy  
Twombly, James

Brown, Julie  
Easson, Timothy  
Keans, Sandra  
Woods, Phyllis

Campbell, W Packy  
Harrington, Michael  
Newton, Clifford

**SULLIVAN**

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

and floor amendment (0391h) failed.

Rep. Hopper offered a floor amendment (0525h).

**Floor Amendment (0525h)**

Amend the bill by replacing section 1 with the following:

1 State Representative Districts. RSA 662:5 is repealed and reenacted to read as follows:

662:5 State Representative Districts. The state is divided into districts for the choosing of state representatives, each of which may elect the number of representatives set forth opposite the district, as follows:

**I. Belknap County.**

District No. 1	Center Harbor	
	New Hampton	1
District No. 2	Meredith	2
District No. 3	Sanbornton	
	Tilton	1
District No. 4	Belmont	2
District No. 5	Belmont	
	Sanbornton	
	Tilton	1
District No. 6	Gilmanton	1
District No. 7	Alton	1
District No. 8	Barnstead	1
District No. 9	Gilford	2
District No. 10	Alton	
	Barnstead	
	Gilford	1
District No. 11	Laconia	5

**II. Carroll County.**

District No. 1	Bartlett	
	Chatham	
	Hart's Location	
	Jackson	1
District No. 2	Conway	
	Hale's Location	2
District No. 3	Bartlett	
	Chatham	
	Conway	
	Hale's Location	
	Hart's Location	
	Jackson	1
District No. 4	Albany	
	Eaton	
	Madison	1
District No. 5	Ossipee	1
District No. 6	Effingham	
	Freedom	
	Ossipee	
	Tamworth	2
District No. 7	Wakefield	1
District No. 8	Wolfeboro	1
District No. 9	Moultonborough	1
District No. 10	Brookfield	
	Moultonborough	

	Sandwich	
	Tuftonboro	
	Wakefield	
	Wolfeboro	3
III. Cheshire County.		
District No. 1	Gilsum	
	Stoddard	
	Sullivan	
	Surry	1
District No. 2	Jaffrey	1
District No. 3	Dublin	
	Harrisville	
	Nelson	
	Roxbury	1
District No. 4	Dublin	
	Jaffrey	
	Harrisville	
	Nelson	
	Roxbury	1
District No. 5	Marlborough	
	Swanzy	3
District No. 6	Rindge	1
District No. 7	Winchester	1
District No. 8	Fitzwilliam	
	Richmond	
	Rindge	
	Troy	
	Winchester	3
District No. 9	Hinsdale	1
District No. 10	Chesterfield	
	Westmoreland	1
District No. 11	Chesterfield	
	Hinsdale	
	Westmoreland	1
District No. 12	Alstead	
	Marlow	
	Walpole	2
District No. 13	Keene Ward 1	1
District No. 14	Keene Ward 2	1
District No. 15	Keene Ward 3	1
District No. 16	Keene Ward 4	1
District No. 17	Keene Ward 5	1
District No. 18	Keene Wards 1-5	2
IV. Coos County.		
District No. 1	Atkinson and Gilmanton Academy Grant	
	Clarksville	
	Colebrook	
	Columbia	
	Dix's Grant	
	Dixville	
	Erving's Location	
	Pittsburg	
	Second College Grant	
	Stewartstown	
	Stratford	2

District No. 2	Berlin Cambridge Dummer Errol Milan Millsfield Odell Success Wentworth's Location	4
District No. 3	Kilkenny Lancaster Northumberland Stark	2
District No. 4	Dalton Whitefield	1
District No. 5	Bean's Grant Bean's Purchase Carroll Chandler's Purchase Crawford's Purchase Cutt's Grant Gorham Green's Grant Hadley's Purchase Jefferson Low and Burbank's Grant Martin's Location Pinkham's Grant Randolph Sargent's Purchase Shelburne Thompson and Meserve's Purchase	2
	V. Grafton County.	
District No. 1	Bethlehem Littleton Monroe	3
District No. 2	Bath Lisbon Lyman	1
District No. 3	Benton Franconia Landaff Sugar Hill Warren	1
District No. 4	Easton Ellsworth Lincoln Livermore Waterville Valley Woodstock	1
District No. 5	Haverhill Orford Piermont	2
District No. 6	Ashland Campton Holderness Thornton	3

District No. 7	Plymouth	2
District No. 8	Alexandria	
	Bridgewater	
	Bristol	
	Hebron	2
District No. 9	Dorchester	
	Groton	
	Rumney	
	Wentworth	1
District No. 10	Hanover	
	Lyme	4
District No. 11	Canaan	
	Enfield	
	Grafton	
	Orange	3
District No. 12	Lebanon	4

## VI. Hillsborough County.

District No. 1	Antrim	
	Deering	1
District No. 2	Antrim	
	Deering	
	Hillsborough	
	Windsor	1
District No. 3	Hillsborough	
	Windsor	1
District No. 4	Weare	2
District No. 5	Goffstown	
	Weare	1
District No. 6	Francestown	
	Greenfield	1
District No. 7	Goffstown	5
District No. 8	Peterborough	
	Sharon	2
District No. 9	Bennington	
	Hancock	1
District No. 10	Lyndeborough	
	New Boston	
	Mt. Vernon	1
District No. 11	New Boston	1
District No. 12	Temple	
	Wilton	1
District No. 13	Milford	
	Temple	
	Wilton	1
District No. 14	Milford	4
District No. 15	Amherst	3
District No. 16	Amherst	
	Mt. Vernon	1
District No. 17	Bedford	6
District No. 18	Litchfield	2
District No. 19	Merrimack	8
District No. 20	Greenville	
	New Ipswich	2
District No. 21	Brookline	
	Hollis	
	Mason	1

District No. 22	Brookline	
	Mason	1
District No. 23	Hollis	2
District No. 24	Hudson	7
District No. 25	Pelham	3
District No. 26	Hudson	
	Litchfield	
	Pelham	1
District No. 27	Nashua Ward 1	3
District No. 28	Nashua Ward 2	3
District No. 29	Nashua Ward 3	3
District No. 30	Nashua Ward 4	3
District No. 31	Nashua Ward 5	3
District No. 32	Nashua Ward 6	3
District No. 33	Nashua Ward 7	3
District No. 34	Nashua Ward 8	3
District No. 35	Nashua Ward 9	3
District No. 36	Nashua Wards 1-9	1
District No. 37	Manchester Ward 1	3
District No. 38	Manchester Ward 2	3
District No. 39	Manchester Ward 3	3
District No. 40	Manchester Ward 4	3
District No. 41	Manchester Ward 5	3
District No. 42	Manchester Ward 6	3
District No. 43	Manchester Ward 7	3
District No. 44	Manchester Ward 8	3
District No. 45	Manchester Ward 9	3
District No. 46	Manchester Ward 10	2
District No. 47	Manchester Ward 11	2
District No. 48	Manchester Ward 12	2
District No. 49	Manchester Wards 10, 11, and 12	2

## VII. Merrimack County.

District No. 1	Andover	
	Hill	1
District No. 2	New London	1
District No. 3	Danbury	
	New London	
	Wilmot	1
District No. 4	Newbury	
	Sutton	
	Warner	2
District No. 5	Bradford	
	Henniker	2
District No. 6	Dunbarton	
	Hopkinton	
	Webster	2
District No. 7	Bow	2
District No. 8	Bow	
	Dunbarton	
	Hopkinton	
	Webster	1
District No. 9	Hooksett	4
District No. 10	Allenstown	
	Pembroke	4
District No. 11	Chichester	
	Epsom	2

District No. 12	Pittsfield	1
District No. 13	Loudon	1
District No. 14	Northfield	1
District No. 15	Boscawen	1
District No. 16	Boscawen	
	Canterbury	
	Loudon	
	Northfield	
	Pittsfield	2
District No. 17	Franklin	
	Salisbury	3
District No. 18	Concord Ward 1	1
District No. 19	Concord Ward 2	1
District No. 20	Concord Ward 3	1
District No. 21	Concord Ward 4	1
District No. 22	Concord Ward 5	1
District No. 23	Concord Ward 6	1
District No. 24	Concord Ward 7	1
District No. 25	Concord Ward 8	1
District No. 26	Concord Ward 9	1
District No. 27	Concord Ward 10	1
District No. 28	Concord Wards 1-10	3

## VIII. Rockingham County.

District No. 1	Northwood	1
District No. 2	Nottingham	1
District No. 3	Deerfield	1
District No. 4	Candia	1
District No. 5	Candia	
	Deerfield	
	Northwood	
	Nottingham	1
District No. 6	Raymond	3
District No. 7	Auburn	1
District No. 8	Chester	1
District No. 9	Auburn	
	Chester	
	Raymond	1
District No. 10	Danville	1
District No. 11	Sandown	1
District No. 12	Fremont	1
District No. 13	Danville	
	Sandown	1
District No. 14	Atkinson	2
District No. 15	Hampstead	2
District No. 16	Plaistow	2
District No. 17	Hampstead	
	Plaistow	1
District No. 18	Derry	11
District No. 19	Londonderry	7
District No. 20	Windham	3
District No. 21	Londonderry	
	Windham	1
District No. 22	Salem	9
District No. 23	Epping	1
District No. 24	Epping	
	Fremont	1



District No. 25	Exeter	
	Kensington	5
District No. 26	Brentwood	1
District No. 27	East Kingston	
	Kingston	
	Newton	4
District No. 28	Newfields	
	Newmarket	3
District No. 29	Stratham	2
District No. 30	Greenland	1
District No. 31	New Castle	
	Rye	2
District No. 32	North Hampton	1
District No. 33	Hampton	
	Hampton Falls	5
District No. 34	Hampton	
	Hampton Falls	
	North Hampton	1
District No. 35	Seabrook	
	South Hampton	3
District No. 36	Portsmouth Ward 1	1
District No. 37	Portsmouth Ward 2	1
District No. 38	Newington	
	Portsmouth Ward 3	1
District No. 39	Portsmouth Ward 4	1
District No. 40	Portsmouth Ward 5	1
District No. 41	Portsmouth Wards 1, 2, and 5	1
District No. 42	Newington	
	Portsmouth Wards 3 and 4	1

## IX. Strafford County.

District No. 1	Farmington	1
District No. 2	Milton	1
District No. 3	Middleton	
	New Durham	1
District No. 4	Farmington	
	Middleton	
	Milton	
	New Durham	1
District No. 5	Rochester Ward 1	1
District No. 6	Rochester Ward 2	1
District No. 7	Rochester Wards 1 and 2	1
District No. 8	Rochester Ward 3	1
District No. 9	Rochester Ward 4	1
District No. 10	Rochester Wards 3 and 4	1
District No. 11	Rochester Ward 5	1
District No. 12	Rochester Ward 6	1
District No. 13	Rochester Wards 5 and 6	1
District No. 14	Rollinsford	
	Somersworth	5
District No. 15	Dover Ward 1	1
District No. 16	Dover Ward 6	1
District No. 17	Dover Wards 1 and 6	1
District No. 18	Dover Ward 2	1
District No. 19	Dover Ward 3	1
District No. 20	Dover Wards 2 and 3	1
District No. 21	Dover Ward 4	1

District No. 22	Dover Ward 5	1
District No. 23	Dover Wards 4 and 5	1
District No. 24	Durham	4
District No. 25	Barrington	2
District No. 26	Lee	1
District No. 27	Strafford	1
District No. 28	Barrington	
	Durham	
	Lee	
	Madbury	
	Strafford	1

X. Sullivan County.

District No. 1	Cornish	
	Plainfield	1
District No. 2	Croydon	
	Newport	
	Unity	2
District No. 3	Cornish	
	Croydon	
	Newport	
	Plainfield	
	Unity	1
District No. 4	Sunapee	1
District No. 5	Grantham	
	Springfield	1
District No. 6	Acworth	
	Goshen	
	Lempster	
	Washington	1
District No. 7	Charlestown	
	Langdon	1
District No. 8	Acworth	
	Charlestown	
	Goshen	
	Langdon	
	Lempster	
	Washington	1
District No. 9	Claremont Ward 1	1
District No. 10	Claremont Ward 2	1
District No. 11	Claremont Ward 3	1
District No. 12	Claremont Wards 1-3	1

Reps. Clemons and Whalley spoke against.  
Reps. Hopper and Vaillancourt spoke in favor.  
Rep. Whalley requested a roll call; sufficiently seconded.  
The question being adoption of floor amendment (0525h).

YEAS 88 NAYS 259

YEAS 88  
BELKNAP

Boyce, Laurie                      Laflam, Robert

CARROLL

Babson, David Jr                McConkey, Mark

CHESHIRE

Manning, Joseph                Pratt, John

**COOS**

King, Frederick  
Woodward, David

Poulin, Richard

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Akins, Ralph  
Sorg, Gregory

Alger, John  
Williams, Burton

Ingretson, Paul

Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Bergeron, Jean-Guy  
Buhlman, David  
Gibson, John  
Hagan, Barbara  
Katsiantonis, Thomas  
Lessard, Rudy  
Mooney, Maureen  
Scanlon, Michael

Artz, Lawrence  
Bouchard, David  
Carter, Mark  
Gonzalez, Carlos  
Harrington, Paul  
Kurk, Neal  
Malloy, Chris  
Mosher, William  
Souza, Kathleen

Balboni, Michael  
Brassard, Paul  
Christiansen, Lars  
Goyette, Peter Jr  
Hopper, Gary  
LaFlamme, Paul  
Martin, Mary Ellen  
Price, Pamela  
Vaillancourt, Steve

Barry, J Gail  
Bruno, Pierre  
Crane, Elenore Casey  
Graham, John  
Hunter, Bruce  
Leach, Edward  
McRae, Karen  
Ross, Lawrence  
Wheeler, James

**MERRIMACK**

Blanchard, Elizabeth  
Perkins, Randy

Clarke, Claire  
Rush, Deanna

Leber, William

Maxfield, Roy

**ROCKINGHAM**

Camm, Kevin  
DiFruscia, Anthony  
Itse, Daniel  
Tufts, J Arthur  
Weyler, Kenneth

Carson, Sharon  
Dodge, Robert  
Morris, Richard  
Varrell, Thomas

Clark, Vivian  
Dumaine, Dudley  
Putnam, Ed II  
Waterhouse, Kevin

Corbin, Corey  
Hutchinson, Karen  
Quandt, Matthew  
Welch, David

**STRAFFORD**

Bickford, David  
Knowles, William  
Woods, Phyllis

Creteau, Irene  
Musler, George

Harrington, Michael  
Pelletier, Arthur

Kaen, Naida  
Twombly, James

**SULLIVAN**

Donovan, Thomas

Jones, Constance

Leone, Richard

**NAYS 259****BELKNAP**

Ahern, Omer Jr  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

Allen, Janet  
Holbrook, Robert  
Rice, Thomas

Dewhirst, Glenn  
Lawton, David  
Thomas, John

Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

**CARROLL**

Brown, Carolyn  
Morrow, Harry  
Philbrick, Donald

Derby, Mark  
Mock, Henry  
Stevens, Stanley

Hatch, Paul  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Meader, David  
Richardson, Barbara  
Smith, Edwin

Dunn, James  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Tilton, Anna

Eaton, Daniel  
Laurent, John  
Parkhurst, Henry  
Royce, H Charles  
Webber, Amy

Espiefs, Peter  
Liebl, George  
Pratt, Irene  
Slack, Pamela  
Weed, Charles

**COOS**

Guay, Lawrence  
Tholl, John Jr

Mears, Edgar

Pratt, Leighton

Theberge, Robert

**GRAFTON**

Almy, Susan  
Cooney, Mary  
Gilman, G Michael  
Hammond, Lee  
Sokol, Hilda

Barker, Robert  
Densmore, Edward  
Gionet, Edmond  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Dorsett, Andrew  
Giuda, Robert  
Nordgren, Sharon

Bleyler, Ruth  
Dudley, Terri  
Ham, Bonnie  
Scovner, Nancy

**HILLSBOROUGH**

Allan, Nelson  
Baroody, Benjamin  
Brundige, Robert  
Chabot, Robert  
Cote, Peter  
Dokmo, Cynthia  
Gargas, Carolyn  
Hall, Charles  
Haytayan, Harry Jr  
Jasper, Shawn  
Lasky, Bette  
McHugh, Claire  
O'Brien, Lori  
Pepino, Leo  
Schulze, Joan  
Stepanek, Stephen  
Tahir, Saghir

Allen, Timothy  
Batula, Peter  
Buckley, Raymond  
Christensen, D L Chris  
Coughlin, Pamela  
Drisko, Richard  
Gorman, Mary  
Hallyburton, Margaret  
Holden, Randolph  
Jean, Claudette  
Lawrence, James  
Mercer, Robert  
Ober, Russell III  
Pilotte, Maurice  
Shaw, Barbara  
Sullivan, Francis  
Tate, Joan

Arnold, Thomas Jr  
Beaton, William  
Carter, Jeffrey  
Clayton, William  
Desmarais, Vivian  
Elliott, Larry  
Greenberg, Gary  
Hansen, Ryan  
Infantine, William  
Johnson, Lionel  
Lefebvre, Roland  
Michon, Stephen  
Pappas, Christopher  
Reeves, Sandra  
Slocum, Lee  
Sullivan, Peter  
Wheeler, Robert

Balcom, John  
Bergin, Peter  
Cernota, Albert  
Clemons, Jane  
Dionne, Kimberley  
Fields, Dennis  
Haley, Robert  
Hawkins, Ken  
Irwin, Anne-Marie  
Kopka, Angeline  
Luebker, Bernard  
Movsesian, Lori  
Pappas, Marc  
Rowe, Robert  
Spiess, Paul  
Sweeney, Cynthia

**MERRIMACK**

Bouchard, Candace  
Davis, Frank  
Field, William  
Gile, Mary  
Jacobson, Alf  
Langer, Ray  
McCormick, Tom  
Owen, Derek  
Wallner, Mary Jane

Brueggemann, Donald  
DeJoie, John  
Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
Lockwood, Priscilla  
Nutter, Edward  
Potter, Frances

Currier, David  
DeStefano, Stephen  
Fraser, Leo Jr  
Hamm, Christine  
Kennedy, Richard  
MacKay, James  
Oliver, James  
Reed, Dennis

Daniels, Eric  
Dunne, Christopher  
French, Barbara  
Hess, David  
L'Heureux, Stephen  
Marple, Richard  
Osborne, Jessie  
Seldin, Gloria

**ROCKINGHAM**

Allen, Mary  
Bridle, Russell  
Dalrymple, Janeen  
Francoeur, Sheila  
Gleason, John  
Ingram, Russell  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Moore, Benjamin  
Packard, Sherman  
Robertson, Carl  
Smith, Donald  
Weare, E Albert  
Zolla, William

Belanger, Ronald  
Cady, Harriet  
Duffy, James  
Gilbert, Jeffrey  
Gould, Kenneth  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McEachern, Paul  
Norelli, Terie  
Pantelakos, Laura  
Roessner, Kurt  
Smith, Paul  
Weldy, Norman Jr

Bicknell, Elbert  
Casey, Kimberley  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McKinney, Betsy  
Noyes, Richard  
Pitts, Jacqueline  
Ruffner, Walter  
Splaine, James  
Wiley, Robert

Blanchard, MaryAnn  
Coes, Betsy  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Katsakiores, George  
Langley, Jane  
Manning, John  
McMahon, Charles  
O'Neil, Michael  
Rausch, James  
Shultis, Elizabeth  
Vallone, Matthew  
Winchell, George

**STRAFFORD**

Albert, Russell  
Callaghan, Frank  
Easson, Timothy

Bemis, Alan  
Campbell, W Packy  
Grassie, Anne

Berube, Roger  
Cataldo, Sam  
Heon, Richard

Brown, Julie  
Dunlap, Patricia  
Hofmann, Roland

Johnson, Nancy  
Rollo, Deanna  
Smith, Marjorie  
Vachon, Dennis

Keans, Sandra  
Rous, Emma  
Spang, Judith  
Wall, Janet

Miller, Joseph  
Schmidt, Peter  
Taylor, Katherine

Newton, Clifford  
Scott, David  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Flint, Gordon Sr  
Phinizy, James

Burling, Peter  
Franklin, Peter  
Rodeschin, Beverly

Cloutier, John  
Harris, Joseph

Ferland, Brenda  
Harris, Sandra

and floor amendment (0525h) failed.

Rep. Derby requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

### YEAS 247 NAYS 100

#### YEAS 247

#### BELKNAP

Ahern, Omer Jr  
Fitzgerald, James  
Lawton, David  
Thomas, John

Allen, Janet  
Flanders, Donald  
Nedeau, Stephen  
Wendelboe, Fran

Boyce, Laurie  
Holbrook, Robert  
Pilliod, James  
Whalley, Michael

Dewhirst, Glenn  
Laffam, Robert  
Rice, Thomas

#### CARROLL

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Hatch, Paul  
Mock, Henry  
Stevens, Stanley

#### CHESHIRE

Fish, Douglas  
Manning, Joseph  
Smith, Edwin

Hunt, John  
Parkhurst, Henry

Laurent, John  
Richardson, Barbara

Liebl, George  
Royce, H Charles

#### COOS

Guay, Lawrence  
Tholl, John Jr

King, Frederick  
Woodward, David

Pratt, Leighton

Stohl, Eric

#### GRAFTON

Akins, Ralph  
Dudley, Terri  
Ham, Bonnie  
Solomon, Peter

Alger, John  
Gilman, G Michael  
Ingbreton, Paul  
Sorg, Gregory

Barker, Robert  
Gionet, Edmond  
Maybeck, Margie  
Williams, Burton

Dorsett, Andrew  
Giuda, Robert  
Naro, Debra

### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Cernota, Albert  
Clemons, Jane  
Desmarais, Vivian  
Elliott, Larry  
Gorman, Mary  
Hagan, Barbara  
Hansen, Ryan  
Holden, Randolph  
Jasper, Shawn  
LaFlamme, Paul

Allan, Nelson  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Chabot, Robert  
Cote, Peter  
Dionne, Kimberley  
Fields, Dennis  
Goyette, Peter Jr  
Haley, Robert  
Harrington, Paul  
Hopper, Gary  
Jean, Claudette  
Lasky, Bette

Allen, Timothy  
Balcom, John  
Bergin, Peter  
Carter, Jeffrey  
Christensen, D L Chris  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Graham, John  
Hall, Charles  
Hawkins, Ken  
Hunter, Bruce  
Johnson, Lionel  
Lawrence, James

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Carter, Mark  
Christiansen, Lars  
Crane, Elenore Casey  
Drisko, Richard  
Gonzalez, Carlos  
Greenberg, Gary  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William  
Kurk, Neal  
Leach, Edward

Lefebvre, Roland  
McHugh, Claire  
Mooney, Maureen  
Pappas, Marc  
Ross, Lawrence  
Slocum, Lee  
Sweeney, Cynthia  
Wheeler, James

Lessard, Rudy  
McRae, Karen  
Movsesian, Lori  
Pepino, Leo  
Rowe, Robert  
Souza, Kathleen  
Tahir, Saghir  
Wheeler, Robert

Luebker, Bernard  
Mercer, Robert  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Spiess, Paul  
Tate, Joan

Martin, Mary Ellen  
Michon, Stephen  
Ober, Russell III  
Reeves, Sandra  
Schulze, Joan  
Stepanek, Stephen  
Vaillancourt, Steve

### MERRIMACK

Currier, David  
Field, William  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Daniels, Eric  
Foley, Albert  
Jacobson, Alf  
Langer, Ray  
Marple, Richard  
Oliver, James

DeStefano, Stephen  
Fraser, Leo Jr  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Reed, Dennis

Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom

### ROCKINGHAM

Allen, Mary  
Cady, Harriet  
Dalrymple, Janeen  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Morris, Richard  
Putnam, Ed II  
Ruffner, Walter  
Waterhouse, Kevin  
Weyler, Kenneth

Belanger, Ronald  
Camm, Kevin  
DiFruscia, Anthony  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McKinney, Betsy  
Noyes, Richard  
Rausch, James  
Smith, Donald  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Carson, Sharon  
Duffy, James  
Francoeur, Sheila  
Gleason, John  
Hutchinson, Karen  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McMahon, Charles  
O'Neil, Michael  
Robertson, Carl  
Smith, Paul  
Welch, David  
Winchell, George

Bridle, Russell  
Clark, Vivian  
Dumaine, Dudley  
Gilbert, Jeffrey  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, George  
Langley, Jane  
Manning, John  
Moore, Benjamin  
Packard, Sherman  
Roessner, Kurt  
Tufts, J Arthur  
Weldy, Norman Jr  
Zolla, William

### STRAFFORD

Albert, Russell  
Campbell, W Packy  
Easson, Timothy  
Keans, Sandra  
Twombly, James

Bemis, Alan  
Cataldo, Sam  
Harrington, Michael  
Newton, Clifford  
Woods, Phyllis

Berube, Roger  
Creteau, Irene  
Heon, Richard  
Rollo, Deanna

Brown, Julie  
Dunlap, Patricia  
Kaen, Naida  
Scott, David

### SULLIVAN

Donovan, Thomas

Flint, Gordon Sr

Rodeschin, Beverly

### NAYS 100 BELKNAP

None

### CARROLL

None

### CHESHIRE

Allen, Peter  
Meader, David  
Robertson, Timothy  
Weed, Charles

Dunn, James  
Mitchell, McKim  
Slack, Pamela

Eaton, Daniel  
Pratt, Irene  
Tilton, Anna

Espiefs, Peter  
Pratt, John  
Webber, Amy

**COOS**

Mears, Edgar	Poulin, Richard	Richardson, Herbert	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Hammond, Lee	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda			

**HILLSBOROUGH**

Baroody, Benjamin	Bergeron, Jean-Guy	Brassard, Paul	Buckley, Raymond
Buhman, David	Clayton, William	Gibson, John	Irwin, Anne-Marie
Katsiantonis, Thomas	Kopka, Angeline	Malloy, Chris	Mosher, William
Pappas, Christopher	Pilotte, Maurice	Shaw, Barbara	Sullivan, Francis
Sullivan, Peter			

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Bueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	French, Barbara	Gile, Mary
Hamm, Christine	Osborne, Jessie	Owen, Derek	Perkins, Randy
Potter, Frances	Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Corbin, Corey
Dodge, Robert	McEachern, Paul	Norelli, Terie	Pantelakos, Laura
Pitts, Jacqueline	Quandt, Matthew	Shultis, Elizabeth	Splaine, James
Vallone, Matthew	Varrell, Thomas		

**STRAFFORD**

Bickford, David	Callaghan, Frank	Grassie, Anne	Hofemann, Roland
Johnson, Nancy	Knowles, William	Miller, Joseph	Musler, George
Pelletier, Arthur	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Spang, Judith	Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis
Wall, Janet			

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Franklin, Peter	Harris, Joseph	Harris, Sandra	Jones, Constance
Leone, Richard	Phinzy, James		

and the majority committee report was adopted.  
Rep. Parkhurst voted aye and intended to vote nay.  
Ordered to third reading.

**MOTION TO LAY ON THE TABLE**

Rep. Burling moved that **HB 1292**, apportioning state representative districts, be laid on the table.  
Rep. Bruno requested a roll call; sufficiently seconded.  
The question being adoption of the motion to lay on the table.

**YEAS 126 NAYS 220****YEAS 126****BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Meader, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Slack, Pamela
Tilton, Anna	Webber, Amy	Weed, Charles	

**COOS**

Mears, Edgar	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Beyler, Ruth
Cooney, Mary	Densmore, Edward	Hammond, Lee	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	

**HILLSBOROUGH**

Baroody, Benjamin	Bergeron, Jean-Guy	Brassard, Paul	Buckley, Raymond
Clayton, William	Clemons, Jane	Cote, Peter	Gibson, John
Gorman, Mary	Haley, Robert	Holden, Randolph	Irwin, Anne-Marie
Jean, Claudette	Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline
Lasky, Bette	Leach, Edward	Lefebvre, Roland	Malloy, Chris
Martin, Mary Ellen	Mosher, William	Movsesian, Lori	Pappas, Christopher
Pilotte, Maurice	Ross, Lawrence	Schulze, Joan	Shaw, Barbara
Sullivan, Francis	Sullivan, Peter	Sweeney, Cynthia	

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	French, Barbara
Gile, Mary	Hamm, Christine	Marple, Richard	Osborne, Jessie
Owen, Derek	Perkins, Randy	Potter, Frances	Rush, Deanna
Seldin, Gloria	Wallner, Mary Jane		

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy	Corbin, Corey
Dodge, Robert	Dumaine, Dudley	Johnson, Robert	McEachern, Paul
Morris, Richard	Norelli, Terie	Pantelakos, Laura	Pitts, Jacqueline
Quandt, Matthew	Robertson, Carl	Shultis, Elizabeth	Splaine, James
Tufts, J Arthur	Vallone, Matthew		

**STRAFFORD**

Bickford, David	Callaghan, Frank	Creteau, Irene	Grassie, Anne
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Knowles, William	Miller, Joseph	Pelletier, Arthur	Rollo, Deanna
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Spang, Judith
Taylor, Katherine	Taylor, Kathleen	Vachon, Dennis	Wall, Janet

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph
Harris, Sandra	Phinizy, James		

**NAYS 220****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Boyce, Laurie	Dewhirst, Glenn
Fitzgerald, James	Flanders, Donald	Holbrook, Donald	Lafiam, Robert
Lawton, David	Nedeau, Stephen	Pilliod, James	Rice, Thomas
Thomas, John	Wendelboe, Fran	Whalley, Michael	

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

**CHESHIRE**

Fish, Douglas	Hunt, John	Laurent, John	Liebl, George
Manning, Joseph	Royce, H Charles	Smith, Edwin	



**COOS**

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

**GRAFTON**

Alger, John  
Gilman, G Michael  
Ingbreton, Paul  
Williams, Burton

Barker, Robert  
Gionet, Edmond  
Maybeck, Margie

Dorsett, Andrew  
Giuda, Robert  
Naro, Debra

Dudley, Terri  
Ham, Bonnie  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Carter, Mark  
Christiansen, Lars  
Dionne, Kimberley  
Fields, Dennis  
Graham, John  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Jasper, Shawn  
Luebker, Bernard  
Michon, Stephen  
Pappas, Marc  
Rowe, Robert  
Spiess, Paul  
Vaillancourt, Steve

Allan, Nelson  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Cernota, Albert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Greenberg, Gary  
Hansen, Ryan  
Hopper, Gary  
Kurk, Neal  
McHugh, Claire  
Mooney, Maureen  
Pepino, Leo  
Scanlon, Michael  
Stepanek, Stephen  
Wheeler, James

Allen, Timothy  
Balcom, John  
Bergin, Peter  
Buhlman, David  
Chabot, Robert  
Crane, Elenore Casey  
Drisko, Richard  
Gonzalez, Carlos  
Hagan, Barbara  
Harrington, Paul  
Hunter, Bruce  
Lawrence, James  
McRae, Karen  
O'Brien, Lori  
Price, Pamela  
Slocum, Lee  
Tahir, Saghir  
Wheeler, Robert

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Carter, Jeffrey  
Christensen, D L Chris  
Desmarais, Vivian  
Elliott, Larry  
Goyette, Peter Jr  
Hall, Charles  
Hawkins, Ken  
Infantine, William  
Lessard, Rudy  
Mercer, Robert  
Ober, Russell III  
Reeves, Sandra  
Souza, Kathleen  
Tate, Joan

**MERRIMACK**

Currier, David  
Foley, Albert  
Jacobson, Alf  
Langer, Ray  
Maxfield, Roy  
Reed, Dennis

Daniels, Eric  
Fraser, Leo Jr  
Kenison, Leon  
Leber, William  
McCormick, Tom

Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
Lockwood, Priscilla  
Nutter, Edward

Field, William  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Oliver, James

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
Dalrymple, Janeen  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McMahon, Charles  
Packard, Sherman  
Ruffner, Walter  
Waterhouse, Kevin  
Weyler, Kenneth

Belanger, Ronald  
Camm, Kevin  
DiFruscia, Anthony  
Francoeur, Sheila  
Gleason, John  
Hutchinson, Karen  
Katsakiores, George  
Langley, Jane  
Manning, John  
Moore, Benjamin  
Putnam, Ed II  
Smith, Donald  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Carson, Sharon  
Duffy, James  
Gilbert, Jeffrey  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Noyes, Richard  
Rausch, James  
Smith, Paul  
Welch, David  
Winchell, George

Bridle, Russell  
Clark, Vivian  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Itse, Daniel  
Kelley, Jane  
Letourneau, Robert  
McKinney, Betsy  
O'Neil, Michael  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

**STRAFFORD**

Albert, Russell  
Campbell, W Packy  
Harrington, Michael  
Scott, David

Bemis, Alan  
Cataldo, Sam  
Heon, Richard  
Twombly, James

Berube, Roger  
Dunlap, Patricia  
Musler, George  
Woods, Phyllis

Brown, Julie  
Easson, Timothy  
Newton, Clifford

## SULLIVAN

Jones, Constance

Leone, Richard

Rodeschin, Beverly

and the motion to lay on the table failed.

**HB 1156**, establishing a committee to study the use of pesticides and herbicides in residential neighborhoods. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.** Rep. George T. Musler for the Majority of Environment and Agriculture: Passage of this bill would create a committee to study the residential use of Pesticide and Herbicides. Based on input from representatives of the responsible state agencies, a majority of the committee felt that there are enough rules in place to insure proper regulation and therefore further study is not needed. Vote 10-2.

Rep. Estelle Diamond for the Minority of Environment and Agriculture: Since HB 1156 was a resolution to "study the use of herbicides and pesticides on residential lawns," too much focus was spent on the standards of protection established by the EPA and currently in place. It was agreed that the use of toxins on lawns in residential areas was problematical especially with the very high rates of asthma amongst New Hampshire's children. However given the freeze on spending the bill is recommended ITL.

Majority report adopted.

**HB 1208**, relative to standards of certification in credentialing for New Hampshire public school food service directors and staff. **INEXPEDIENT TO LEGISLATE**

Rep. Peter E. Bergin for Executive Departments and Administration: This bill focused on sanitation and safety of school lunch personnel throughout the state. The initial bill had an extensive training program for all food service personnel. Because of this, there was a 28-a concern. A subcommittee extensively studied this matter and offered an amendment that public school lunch service personnel be encouraged to seek education and voluntary certification in food handling, food safety and sanitation procedures. After lengthy discussion, the majority of the committee, felt that currently the state and local school districts already have extensive safety and inspection programs in place. In addition, current statutes require those local school districts to provide nutritional food to the student body. Also, the committee was given testimony that this is not a problem. If it isn't broken, why fix it? Vote 10-7.

Adopted.

## COMMUNICATION

February 19, 2004

Dear Speaker Chandler,

This is to inform you of my resignation from the New Hampshire House of Representatives effective immediately.

It has been an honor to serve my constituents of Bedford and I thank you for your understanding.

J. Edward Kerns, District 57

The House recessed at 12:00 p.m.

## RECESS

(Speaker Chandler in the Chair)

The House reconvened at 1:00 p.m.

## REGULAR CALENDAR (CONT'D.)

**HB 1142**, relative to tort liability to third persons for oil spills. **OUGHT TO PASS**

Rep. Tony F. Soltani for Judiciary: The statutory scheme, as it now stands, creates an independent cause of action with a correlating remedy for victims of pollution. This cause of action is cumulative to all other existing common law remedies available to those who have suffered losses resulting from an oil spill. Presently the statute provides for a recovery of 150 percent of the actual damages. New Hampshire, as a matter of public policy, does not allow victims to recover punitive damages. Under our system, penalties are payable to the state and victims do not enjoy a windfall. This statute is an exception to the New Hampshire rule and the proposed bill is intended to bring this law into conformity with the state's public policy against punitive damages. Severe civil penalties, payable to the state remain in effect and enforceable. Vote 10-8.

Rep. Mock moved Recommit to Judiciary Committee.

Adopted.

**HB 1253-FN-L, prohibiting public funds, employees, and facilities to assist or perform abortions. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Bette R. Lasky for the Majority of Judiciary: This bill proposes to prohibit the use of public funds, public employees and public facilities for the purpose of performing or assisting in an abortion. This bill as submitted includes prohibiting public funds, employees and facilities to be used to encourage or counsel a woman who is interested in getting information regarding an abortion. In addition, the requirement of a second opinion from a licensed physician before any abortion is performed when a mother's life is deemed to be in danger is part of this bill. To enforce the provisions of the bill, any taxpayer in the state would have standing to bring suit in Superior Court and any person in violation of this bill would be guilty of a misdemeanor or in certain cases, a felony. Any physician performing an abortion would have his or her license suspended by the Board of Medicine for 90 days for the first offense and revoked for any subsequent violation. An amendment was proposed eliminating the prohibition against counseling women, as the sponsors realized the First Amendment implications of this provision. The sponsor's amendment also omitted the penalty portions of the bill. In spite of these changes, the majority still found the bill to be fatally flawed. Firstly, testimony was given indicating that NO public funds are used to provide abortion services except as required by federal Medicaid law. The bill would even if amended cause a conflict with Medicaid law and would thus jeopardize federal funding for several public health exceptions for those pregnancies that result from rape or incest and the second physician requirement would delay a woman's ability to obtain an abortion even in critical situations in which her life is threatened. Finally, the "taxpayer standing" provision of the bill would subject the state to unnecessary, protracted and expensive litigation. All in all, the majority of the Judiciary Committee finds this bill as amended inexpedient to legislate as a significant threat to women's health and her constitutional right to choose. Vote 10-8.

Rep. Gregory M. Sorg for the Minority of Judiciary: A woman's right to an abortion, we are told, is fundamental, notwithstanding that it lay hidden in the "penumbras formed by emanation" from the guarantees of the Fourteenth Amendment, undetected by anyone, least of all by those who voted to ratify it in 1868, until discovered by five members of the U.S. Supreme Court in 1973, one hundred and five years later. Undeterred by its highly dubious pedigree, advocates of abortion rights are not content with merely having the right, but insist that its exercise be subsidized by taxpayers, large numbers of whom regard their opposition to abortion-on-demand as the moral equivalent of pre-Civil War opposition to human slavery. This bill was thoroughly and thoughtfully amended by the sponsor to meet, in good faith, the legitimate objections to it raised at the public hearing. The remaining objections cited by the majority are mere quibbles of the sort to which opponents of any reasonable limit to abortion rights are always reduced.

Rep. Easson spoke against and yielded to questions.

Rep. Lasky spoke in favor and yielded to questions.

Rep. Easson requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 217 NAYS 109**

**YEAS 217**

**BELKNAP**

Allen, Janet	Holbrook, Robert	Lawton, David	Nedeau, Stephen
Pilliod, James	Rice, Thomas	Whalley, Michael	

**CARROLL**

Babson, David Jr	Hatch, Paul	Kenney, Bettie	McConkey, Mark
Merrrow, Harry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Hunt, John	Liebl, George	Meadar, David
Mitchell, McKim	Parkhurst, Henry	Pratt, John	Richardson, Barbara
Robertson, Timothy	Royce, H Charles	Slack, Pamela	Smith, Edwin
Tilton, Anna	Webber, Amy	Weed, Charles	

**COOS**

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Gionet, Edmond  
Scovner, Nancy

Alger, John  
Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Almy, Susan  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Barker, Robert  
Densmore, Edward  
Nordgren, Sharon  
Williams, Burton

**HILLSBOROUGH**

Arnold, Thomas Jr  
Buckley, Raymond  
Clemons, Jane  
Desmarais, Vivian  
Elliott, Larry  
Haley, Robert  
Holden, Randolph  
Kopka, Angeline  
Lefebvre, Roland  
McRae, Karen  
O'Brien, Lori  
Price, Pamela  
Shaw, Barbara  
Sweeney, Cynthia

Balcom, John  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Gargas, Carolyn  
Hall, Charles  
Irwin, Anne-Marie  
Kurk, Neal  
Lessard, Rudy  
Mercer, Robert  
Ober, Russell III  
Ross, Lawrence  
Spiess, Paul  
Tate, Joan

Baroody, Benjamin  
Chabot, Robert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gorman, Mary  
Hallyburton, Margaret  
Johnson, Lionel  
Lasky, Bette  
Malloy, Chris  
Mosher, William  
Pappas, Christopher  
Rowe, Robert  
Sullivan, Francis  
Vaillancourt, Steve

Barry, J Gail  
Christensen, D L Chris  
Craig, James  
Drisko, Richard  
Graham, John  
Haytayan, Harry Jr  
Katsiantonis, Thomas  
Leach, Edward  
Martin, Mary Ellen  
Movsesian, Lori  
Pepino, Leo  
Schulze, Joan  
Sullivan, Peter  
Wheeler, Robert

**MERRIMACK**

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Hamm, Christine  
L'Heureux, Stephen  
Marple, Richard  
Osborne, Jessie  
Reed, Dennis

Bouchard, Candace  
Daniels, Eric  
Fraser, Leo Jr  
Hess, David  
Langer, Ray  
Maxfield, Roy  
Owen, Derek  
Rush, Deanna

Brueggemann, Donald  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla  
McCormick, Tom  
Perkins, Randy  
Seldin, Gloria

Clarke, Claire  
DeJoie, John  
Gile, Mary  
Kenison, Leon  
MacKay, James  
Oliver, James  
Potter, Frances

**ROCKINGHAM**

Belanger, Ronald  
Casey, Kimberley  
Dalrymple, Janeen  
Gilbert, Jeffrey  
Griffin, Mary  
Kelley, Jane  
Major, Norman  
McKinney, Betsy  
Pitts, Jacqueline  
Smith, Donald  
Weare, E Albert

Blanchard, MaryAnn  
Clark, Vivian  
Duffy, James  
Gilbert, Karl  
Johnson, Robert  
Kobel, Rudolph  
Manning, John  
Norelli, Terie  
Rausch, James  
Splaine, James  
Welch, David

Bridle, Russell  
Coes, Betsy  
Flanders, John Sr  
Gleason, John  
Katsakiores, George  
Langley, Jane  
McCann, Richard  
Noyes, Richard  
Robertson, Carl  
Tufts, J Arthur

Camm, Kevin  
Corbin, Corey  
Francoeur, Sheila  
Gould, Kenneth  
Katsakiores, Phyllis  
Langone, John  
McEachern, Paul  
Pantelakos, Laura  
Shultis, Elizabeth  
Vallone, Matthew

**STRAFFORD**

Brown, Julie  
Hofemann, Roland  
Miller, Joseph  
Rous, Emma  
Taylor, Kathleen

Creteau, Irene  
Johnson, Nancy  
Musler, George  
Schmidt, Peter  
Vachon, Dennis

Dunlap, Patricia  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Spang, Judith

**SULLIVAN**

Allison, David  
 Flint, Gordon Sr  
 Jones, Constance

Burling, Peter  
 Franklin, Peter  
 Leone, Richard

Cloutier, John  
 Harris, Joseph  
 Phinizz, James

Ferland, Brenda  
 Harris, Sandra  
 Rodeschin, Beverly

**NAYS 109****BELKNAP**

Ahern, Omer Jr  
 Wendelboe, Fran

Boyce, Laurie

Fitzgerald, James

Laflam, Robert

**CARROLL**

Brown, Carolyn

Derby, Mark

Mock, Henry

Stevens, Stanley

**CHESHIRE**

Laurent, John

Manning, Joseph

**COOS**

Pratt, Leighton

Richardson, Herbert

Woodward, David

**GRAFTON**

Dorsett, Andrew  
 Ham, Bonnie

Dudley, Terri  
 Ingbretson, Paul

Gilman, G Michael  
 Maybeck, Margie

Giuda, Robert  
 Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
 Balboni, Michael  
 Brassard, Paul  
 Carter, Jeffrey  
 Fields, Dennis  
 Hagan, Barbara  
 Hunter, Bruce  
 Lawrence, James  
 Mooney, Maureen  
 Slocum, Lee  
 Wheeler, James

Allan, Nelson  
 Batula, Peter  
 Brundige, Robert  
 Cernota, Albert  
 Gibson, John  
 Harrington, Paul  
 Infantine, William  
 Luebker, Bernard  
 Pappas, Marc  
 Souza, Kathleen

Allen, Timothy  
 Beaton, William  
 Bruno, Pierre  
 Christiansen, Lars  
 Gonzalez, Carlos  
 Hawkins, Ken  
 Jasper, Shawn  
 McHugh, Claire  
 Pilotte, Maurice  
 Stepanek, Stephen

Artz, Lawrence  
 Bergeron, Jean-Guy  
 Buhlman, David  
 Crane, Elenore Casey  
 Goyette, Peter Jr  
 Hopper, Gary  
 Jean, Claudette  
 Michon, Stephen  
 Reeves, Sandra  
 Tahir, Saghir

**MERRIMACK**

Field, William

Foley, Albert

Leber, William

Nutter, Edward

**ROCKINGHAM**

Allen, Mary  
 DiFruscia, Anthony  
 Headd, James  
 Letourneau, Robert  
 Putnam, Ed II  
 Smith, Paul  
 Weyler, Kenneth

Bicknell, Elbert  
 Dumaine, Dudley  
 Ingram, Russell  
 Moore, Benjamin  
 Quandt, Matthew  
 Varrell, Thomas  
 Wiley, Robert

Cady, Harriet  
 Fesh, Bob  
 Itse, Daniel  
 Morris, Richard  
 Roessner, Kurt  
 Waterhouse, Kevin  
 Winchell, George

Carson, Sharon  
 Gillick, Thomas  
 Johnson, Rogers  
 Packard, Sherman  
 Ruffner, Walter  
 Weldy, Norman Jr  
 Zolla, William

**STRAFFORD**

Albert, Russell  
 Callaghan, Frank  
 Harrington, Michael  
 Woods, Phyllis

Bemis, Alan  
 Campbell, W Packy  
 Newton, Clifford

Berube, Roger  
 Cataldo, Sam  
 Scott, David

Bickford, David  
 Easson, Timothy  
 Twombly, James

**SULLIVAN**

Donovan, Thomas  
 and the majority committee report was adopted.

**CACR 24**, relating to election of the attorney general. Providing that the attorney general shall be elected by the house of representatives and the senate. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. James R. MacKay for the Majority of Legislative Administration: A review of legislative history reveals that over the past 30 years, there have been 15 proposals to change the way the New Hampshire Attorney General is selected. Constitutional Conventions reviewed four proposals, the New Hampshire House introduced 11. The New Hampshire Senate introduced none. The 4 proposals reviewed by the 1974 and 1984 Constitutional Convention were all killed by voice votes of the conventions. From 1991 – 2003, of the 11 House Bills, six would have elected the Attorney General by popular vote and five by the General Court, the end result was pretty much the same, the committee of referral recommended ITL and the House voted to kill the bills. The committee on Legislative Administration was impressed by the seriousness and tenacity of the sponsors. However, the committee like all its predecessors voted to ITL this bill. The committee took into consideration that the bill was opposed by the House leadership, the Governor, the present Attorney General and his immediate predecessor. The committee felt that the present system has generally worked well. There have been many Attorneys General who served distinguished careers. One became a U.S. Supreme Court Justice, another became a U.S. Senator and more recently one became Governor. Major concerns revolved around keeping the positions as non-political and independent as possible, the incumbent should not be indebted to legislators. The Attorney General should continue to serve a fixed four year term and be appointed by the Governor and Council as should his staff many of whom serve 5 year terms. Under this bill, the Governor and Council would continue to appoint the extensive staff of the Department of Justice and the General Court would elect the Attorney General for a two year term. To quote from a previous committee report, "If it is not broken, why try to fix it." Vote 12-1.

Rep. Peter H. Burling for the Minority of Legislative Administration: The minority believes that the Attorney General should be elected by the General Court to serve the people of New Hampshire, as is the case with our Treasurer and Secretary of State. Our Government puts great faith in the Legislative Branch and its decision making power. Recent events have seen some of that power erode to the Executive Branch. Passage of the CACR 24 would return the balance.

Reps. Weyler and McEachern spoke against.

Rep. DiFruscia spoke against and yielded to questions.

Reps Stohl, MacKay and Hess spoke in favor.

Rep. MacKay requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 221 NAYS 105

### YEAS 221

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Fitzgerald, James	Flanders, Donald
Holbrook, Robert	Laflam, Robert	Lawton, David	Nedeau, Stephen
Pilliod, James	Rice, Thomas	Thomas, John	Wendelboe, Fran
Whalley, Michael			

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

#### CHESHIRE

Fish, Douglas	Hunt, John	Laurent, John	Liebl, George
Manning, Joseph	Meador, David	Mitchell, McKim	Parkhurst, Henry
Robertson, Timothy	Royce, H Charles	Smith, Edwin	Tilton, Anna

#### COOS

Guay, Lawrence	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Holl, John Jr	Woodward, David	

**GRAFTON**

Alger, John	Bleyler, Ruth	Cooney, Mary	Dorsett, Andrew
Dudley, Terri	Gilman, G Michael	Giuda, Robert	Ham, Bonnie
Hammond, Lee	Ingbretson, Paul	Maybeck, Marie	Naro, Debra
Solomon, Peter	Sorg, Gregory	Williams, Burton	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Balcom, John	Barry, J Gail	Batula, Peter
Beaton, William	Brassard, Paul	Brundige, Robert	Buhlman, David
Carter, Jeffrey	Carter, Mark	Cernota, Albert	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela	Desmarais, Vivian
Dionne, Kimberley	Dokmo, Cynthia	Drisko, Richard	Elliott, Larry
Fields, Dennis	Gargas, Carolyn	Gonzalez, Carlos	Goyette, Peter Jr
Graham, John	Hall, Charles	Hallyburton, Margaret	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Hunter, Bruce	Infantine, William
Jasper, Shawn	Johnson, Lionel	Katsiantonis, Thomas	Kurk, Neal
Lawrence, James	Leach, Edward	Lessard, Rudy	Luebker, Bernard
McHugh, Claire	McRae, Karen	Mercer, Robert	Michon, Stephen
Mooney, Maureen	Mosher, William	Movesian, Lori	O'Brien, Lori
Ober, Russell III	Pappas, Marc	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Rowe, Robert	Slocum, Lee	Spiess, Paul
Stepanek, Stephen	Tahir, Saghir	Tate, Joan	Vaillancourt, Steve
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Currier, David	Daniels, Eric
DeStefano, Stephen	Field, William	Foley, Albert	Fraser, Leo Jr
Gile, Mary	Hager, Elizabeth	Hess, David	Jacobson, Alf
Kenison, Leon	L'Heureux, Stephen	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Marple, Richard	Nutter, Edward
Oliver, James	Osborne, Jessie	Reed, Dennis	

**ROCKINGHAM**

Belanger, Ronald	Bicknell, Elbert	Bridle, Russell	Carson, Sharon
Coes, Betsy	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas	Gleason, John
Gould, Kenneth	Griffin, Mary	Headd, James	Ingram, Russell
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Kobel, Rudolph	Langley, Jane	Letourneau, Robert
Major, Norman	Manning, John	McCann, Richard	McKinney, Betsy
Noyes, Richard	Packard, Sherman	Rausch, James	Robertson, Carl
Roessner, Kurt	Ruffner, Walter	Smith, Donald	Smith, Paul
Tufts, J Arthur	Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weldy, Norman Jr	Wiley, Robert	Winchell, George
Zolla, William			

**STRAFFORD**

Albert, Russell	Bemis, Alan	Berube, Roger	Bickford, David
Brown, Julie	Callaghan, Frank	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Easson, Timothy	Kaen, Naida	Keans, Sandra
Musler, George	Newton, Clifford	Pelletier, Arthur	Scott, David
Spang, Judith	Taylor, Kathleen	Wall, Janet	Woods, Phyllis

**SULLIVAN**

Allison, David	Donovan, Thomas	Flint, Gordon Sr	Franklin, Peter
Harris, Joseph	Harris, Sandra	Jones, Constance	Rodeschin, Beverly

**NAYS 105****BELKNAP**

Boyce, Laurie

**CARROLL**

None

**CHESHIRE**Allen, Peter  
Richardson, BarbaraDunn, James  
Slack, PamelaEaton, Daniel  
Webber, AmyEspieffs, Peter  
Weed, Charles**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**Akins, Ralph  
Densmore, Edward  
Sokol, HildaAlmy, Susan  
Gionet, EdmondBarker, Robert  
Nordgren, SharonBenn, Bernard  
Scovner, Nancy**HILLSBOROUGH**Allen, Timothy  
Buckley, Raymond  
Crane, Elenore Casey  
Haley, Robert  
Kopka, Angeline  
Martin, Mary Ellen  
Schulze, Joan  
Sullivan, PeterBaroody, Benjamin  
Clemons, Jane  
Gibson, John  
Hopper, Gary  
Lasky, Bette  
Pappas, Christopher  
Shaw, Barbara  
Sweeney, CynthiaBergeron, Jean-Guy  
Cote, Peter  
Gorman, Mary  
Irwin, Anne-Marie  
Lefebvre, Roland  
Pepino, Leo  
Souza, KathleenBruno, Pierre  
Craig, James  
Hagan, Barbara  
Jean, Claudette  
Malloy, Chris  
Ross, Lawrence  
Sullivan, Francis**MERRIMACK**Brueggemann, Donald  
French, Barbara  
Owen, Derek  
Wallner, Mary JaneClarke, Claire  
Hamm, Christine  
Perkins, RandyDavis, Frank  
Kennedy, Richard  
Potter, FrancesDeJoie, John  
McCormick, Tom  
Rush, Deanna**ROCKINGHAM**Allen, Mary  
Casey, Kimberley  
Dodge, Robert  
Langone, John  
Pantelakos, Laura  
Shultis, ElizabethBlanchard, MaryAnn  
Clark, Vivian  
Duffy, James  
McEachern, Paul  
Pitts, Jacqueline  
Splaine, JamesCady, Harriet  
Corbin, Corey  
Dumaine, Dudley  
Morris, Richard  
Putnam, Ed II  
Vallone, MatthewCamm, Kevin  
DiFruscia, Anthony  
Itse, Daniel  
Norelli, Terie  
Quandt, Matthew  
Weyler, Kenneth**STRAFFORD**Cataldo, Sam  
Johnson, Nancy  
Schmidt, PeterHarrington, Michael  
Miller, Joseph  
Smith, MarjorieHeon, Richard  
Rollo, Deanna  
Twombly, JamesHofemann, Roland  
Rous, Emma  
Vachon, Dennis**SULLIVAN**Burling, Peter  
Phinzy, James

Cloutier, John

Ferland, Brenda

Leone, Richard

and the majority committee report was adopted.

**HB 1283, relative to wetlands permits. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Harry C. Mellow for the Majority of Resources, Recreation and Development: This bill would amend RSA 482-A:11, II, to severely limit the ability of a municipality to enact and enforce land



use regulations relative to wetlands. State requirements are minimal and it is felt that if a municipality desired to provide more stringent controls it should be their prerogative. Vote 9-5.

Rep. W. Packy Campbell for the Minority of Resources, Recreation and Development: This bill will simply clarify current statutes, which have caused confusion with regards to wetland dredge and fill permits. While certain state environmental laws specifically allow local municipalities to enact more restrictive ordinances, dredge and fill permits issued by the Department of Environmental Services are final and may not be overturned by more restrictive town ordinance. Overzealous town officials simply ignore this limitation and force the project applicant to use legal means to uphold the permit granted by the Department of Environmental Services. The taxpayers of the community as well as the project applicant are forced to pay the legal fees for this frivolous bureaucratic delaying tactic. The minority amendment lays to rest concerns that this would take away local control by specifically referring only to the dredge and fill permit for the project and therefore not limiting municipalities' ability to reject a project which violates a local ordinance. Majority committee report adopted.

#### **HB 1284, relative to setbacks from wetlands. INEXPEDIENT TO LEGISLATE**

Rep. Harry C. Merrow for Resources, Recreation and Development: This revision of RSA 482-A:11, I, would require The Department of Environmental Services (DES) rules to define wetlands, establish minimum setbacks for activities conducted near wetlands and prevent municipalities from establishing standards that are more stringent than those of DES. The committee felt that adequate definitions exist and that if a municipality desired to provide more stringent controls then it should be their prerogative. Vote 11-3.  
Adopted.

#### **CACR 25, relating to prohibiting an income tax. Providing that no tax on personal income shall be levied by the state of New Hampshire. INEXPEDIENT TO LEGISLATE**

Rep. Lee M. Hammond for Ways and Means: The bipartisan conviction of the Ways & Means committee is that it is the duty of the legislature to fund the services demanded by the citizens of New Hampshire. The determination of the methods of taxation used to accomplish that goal must be left to the people. Representatives' attempts to amend and clarify this resolution generated considerable debate as to which existing taxes would have to be repealed. Were this amendment to pass, one of the taxes which would be significantly effected would be the business enterprise tax. It is the right and prerogative of the citizens – taxpayers – to demand accountability of their representatives who are elected to attend to the business of the State. The committee felt a constitutional amendment is not required to instruct the legislators in performing their duty. Vote 16-4.  
Rep. Balboni spoke against.

Rep. Vivian Clark spoke in favor and yielded to questions.

Rep. Balboni requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

### **YEAS 253 NAYS 64**

#### **YEAS 253**

##### **BELKNAP**

Allen, Janet  
Lafiam, Robert  
Thomas, John

Fitzgerald, James  
Nedeau, Stephen  
Whalley, Michael

Flanders, Donald  
Pilliod, James

Holbrook, Robert  
Rice, Thomas

##### **CARROLL**

Babson, David Jr  
Kenney, Bettie  
Patten, Betsey

Brown, Carolyn  
McConkey, Mark  
Philbrick, Donald

Derby, Mark  
Merrow, Harry  
Stevens, Stanley

Hatch, Paul  
Olimpio, J Lisbeth

##### **CHESHIRE**

Allen, Peter  
Fish, Douglas  
Manning, Joseph  
Richardson, Barbara  
Smith, Edwin

Dunn, James  
Hunt, John  
Meador, David  
Robertson, Timothy  
Tilton, Anna

Eaton, Daniel  
Laurent, John  
Mitchell, McKim  
Royce, H Charles  
Webber, Amy

Espiefs, Peter  
Liebl, George  
Parkhurst, Henry  
Slack, Pamela  
Weed, Charles

**COOS**

Guay, Lawrence  
Pratt, Leighton  
Tholl, John Jr

King, Frederick  
Richardson, Herbert  
Woodward, David

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Ham, Bonnie  
Scovner, Nancy

Alger, John  
Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Almy, Susan  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Barker, Robert  
Gionet, Edmond  
Nordgren, Sharon  
Williams, Burton

**HILLSBOROUGH**

Arnold, Thomas Jr  
Beaton, William  
Carter, Jeffrey  
Clemons, Jane  
Desmarais, Vivian  
Elliott, Larry  
Goyette, Peter Jr  
Haytayan, Harry Jr  
Jasper, Shawn  
Kurk, Neal  
Lefebvre, Roland  
Mercer, Robert  
Ober, Russell III  
Price, Pamela  
Schulze, Joan  
Sullivan, Francis  
Tate, Joan

Balcom, John  
Brassard, Paul  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Fields, Dennis  
Graham, John  
Hunter, Bruce  
Jean, Claudette  
Lasky, Bette  
Lessard, Rudy  
Michon, Stephen  
Pappas, Christopher  
Reeves, Sandra  
Shaw, Barbara  
Sullivan, Peter  
Vaillancourt, Steve

Baroody, Benjamin  
Brundige, Robert  
Chabot, Robert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Hall, Charles  
Infantine, William  
Johnson, Lionel  
Lawrence, James  
Malloy, Chris  
Movsesian, Lori  
Pepino, Leo  
Ross, Lawrence  
Souza, Kathleen  
Sweeney, Cynthia

Batula, Peter  
Buckley, Raymond  
Christensen, D L Chris  
Craig, James  
Drisko, Richard  
Gorman, Mary  
Hallyburton, Margaret  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Martin, Mary Ellen  
O'Brien, Lori  
Pilotte, Maurice  
Rowe, Robert  
Spiess, Paul  
Tahir, Saghir

**MERRIMACK**

Blanchard, Elizabeth  
Daniels, Eric  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Marple, Richard  
Owen, Derek  
Rush, Deanna

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Hess, David  
Leber, William  
McCormick, Tom  
Perkins, Randy  
Seldin, Gloria

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
Lockwood, Priscilla  
Oliver, James  
Potter, Frances  
Wallner, Mary Jane

Currier, David  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
MacKay, James  
Osborne, Jessie  
Reed, Dennis

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
Clark, Vivian  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Katsakiores, George  
Langone, John  
McEachern, Paul  
Pantelakos, Laura  
Robertson, Carl  
Smith, Paul  
Waterhouse, Kevin  
Winchell, George

Belanger, Ronald  
Camm, Kevin  
Coes, Betsy  
Francoeur, Sheila  
Gleason, John  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
McKinney, Betsy  
Pitts, Jacqueline  
Roessner, Kurt  
Splaine, James  
Weare, E Albert  
Zolla, William

Blanchard, MaryAnn  
Carson, Sharon  
Dodge, Robert  
Gilbert, Jeffrey  
Gould, Kenneth  
Johnson, Robert  
Kobel, Rudolph  
Manning, John  
Norelli, Terie  
Putnam, Ed II  
Shultis, Elizabeth  
Tufts, J Arthur  
Welch, David

Bridle, Russell  
Casey, Kimberley  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Johnson, Rogers  
Langley, Jane  
McCann, Richard  
Packard, Sherman  
Rausch, James  
Smith, Donald  
Vallone, Matthew  
Weldy, Norman Jr

**STRAFFORD**

Albert, Russell  
Brown, Julie

Bemis, Alan  
Callaghan, Frank

Berube, Roger  
Campbell, W Packy

Bickford, David  
Creteau, Irene

Dunlap, Patricia  
Kaen, Naida  
Rollo, Deanna  
Smith, Marjorie  
Wall, Janet

Heon, Richard  
Keans, Sandra  
Rous, Emma  
Spang, Judith

Hofemann, Roland  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Johnson, Nancy  
Pelletier, Arthur  
Scott, David  
Vachon, Dennis

### SULLIVAN

Burling, Peter  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

### NAYS 64

### BELKNAP

Ahern, Omer Jr

Boyce, Laurie

Lawton, David

Wendelboe, Fran

### CARROLL

Mock, Henry

### CHESHIRE

None

### COOS

None

### GRAFTON

Dorsett, Andrew  
Maybeck, Margie

Gilman, G Michael  
Sorg, Gregory

Giuda, Robert

Ingretson, Paul

### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Buhlman, David  
Gibson, John  
Hawkins, Ken  
Luebker, Bernard  
Mosher, William  
Wheeler, James

Allan, Nelson  
Barry, J Gail  
Cernota, Albert  
Gonzalez, Carlos  
Hopper, Gary  
McHugh, Claire  
Pappas, Marc

Allen, Timothy  
Bergeron, Jean-Guy  
Christiansen, Lars  
Hagan, Barbara  
Katsiantonis, Thomas  
McRae, Karen  
Slocum, Lee

Artz, Lawrence  
Bruno, Pierre  
Crane, Elenore Casey  
Harrington, Paul  
LaFlamme, Paul  
Mooney, Maureen  
Stepanek, Stephen

### MERRIMACK

Clarke, Claire  
Langer, Ray

Field, William  
Nutter, Edward

Foley, Albert

Kennedy, Richard

### ROCKINGHAM

Bicknell, Elbert  
Dumaine, Dudley  
Noyes, Richard  
Wiley, Robert

Corbin, Corey  
Itse, Daniel  
Quandt, Matthew

DiFrancia, Anthony  
Letourneau, Robert  
Varrell, Thomas

Duffy, James  
Morris, Richard  
Weyler, Kenneth

### STRAFFORD

Cataldo, Sam  
Woods, Phyllis

Easson, Timothy

Harrington, Michael

Newton, Clifford

### SULLIVAN

None

and the committee report was adopted.

**HCR 25**, declaring that the directives of the judicial branch in the Claremont cases that the legislative and executive branches define an "adequate education," adopt "standards of accountability," and "guarantee adequate funding" of a public education are not binding on the legislative and executive branches. **INEXPEDIENT TO LEGISLATE**

Rep. Peter S. Espie for Ways and Means: This resolution has appeared before the house in each of the last three years. On each occasion it has been afforded full and respectful hearings. In this last instance, the primary sponsor appeared as the only speaker in favor of the resolution. In view

of the several years of debate on this issue, there appears to be no point in seriously dwelling on the repetition of this resolution. The committee's bipartisan vote signals the end of a period of public frustration and rancor between the house and judicial branches and creates a new time for healing their relations. Vote 15-5.

Reps. Jasper, Pepino and Harrington spoke against.

Rep. Jeffrey Gilbert spoke in favor and yielded to questions.

Rep. Harrington requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

## YEAS 217 NAYS 100

### YEAS 217

#### BELKNAP

Fitzgerald, James  
Pilliod, James

Flanders, Donald  
Thomas, John

Holbrook, Robert  
Whalley, Michael

Nedeau, Stephen

#### CARROLL

Brown, Carolyn  
Morrow, Harry  
Philbrick, Donald

Derby, Mark  
Mock, Henry  
Stevens, Stanley

Hatch, Paul  
Olimpio, J Lisbeth

McConkey, Mark  
Patten, Betsey

#### CHESHIRE

Allen, Peter  
Fish, Douglas  
Mitchell, McKim  
Royce, H Charles  
Webber, Amy

Dunn, James  
Laurent, John  
Parkhurst, Henry  
Slack, Pamela  
Weed, Charles

Eaton, Daniel  
Manning, Joseph  
Richardson, Barbara  
Smith, Edwin

Espiefs, Peter  
Meador, David  
Robertson, Timothy  
Tilton, Anna

#### COOS

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard  
Woodward, David

#### GRAFTON

Akins, Ralph  
Cooney, Mary  
Nordgren, Sharon  
Williams, Burton

Amy, Susan  
Ham, Bonnie  
Scovner, Nancy

Benn, Bernard  
Hammond, Lee  
Sokol, Hilda

Bleyler, Ruth  
Naro, Debra  
Solomon, Peter

#### HILLSBOROUGH

Arnold, Thomas Jr  
Brundige, Robert  
Christensen, D L Chris  
Craig, James  
Drisko, Richard  
Graham, John  
Infantine, William  
Katsiantonis, Thomas  
Lawrence, James  
Malloy, Chris  
Movsesian, Lori  
Price, Pamela  
Schulze, Joan  
Sullivan, Peter  
Vaillancourt, Steve

Balcom, John  
Buckley, Raymond  
Clemons, Jane  
Desmarais, Vivian  
Elliott, Larry  
Hall, Charles  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Martin, Mary Ellen  
O'Brien, Lori  
Reeves, Sandra  
Shaw, Barbara  
Sweeney, Cynthia

Baroody, Benjamin  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Gargas, Carolyn  
Hallyburton, Margaret  
Jean, Claudette  
Kurk, Neal  
Lefebvre, Roland  
Mercer, Robert  
Pappas, Christopher  
Ross, Lawrence  
Spiess, Paul  
Tahir, Saghir

Brassard, Paul  
Chabot, Robert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gorman, Mary  
Haytayan, Harry Jr  
Johnson, Lionel  
Lasky, Bette  
Lessard, Rudy  
Michon, Stephen  
Pilotte, Maurice  
Rowe, Robert  
Sullivan, Francis  
Tate, Joan

#### MERRIMACK

Blanchard, Elizabeth  
Currier, David

Bouchard, Candace  
Daniels, Eric

Brueggemann, Donald  
Davis, Frank

Clarke, Claire  
DeJoie, John

DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
Oliver, James  
Potter, Frances  
Wallner, Mary Jane

Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Osborne, Jessie  
Reed, Dennis

French, Barbara  
Hess, David  
Lockwood, Priscilla  
Owen, Derek  
Rush, Deanna

Gile, Mary  
Jacobson, Alf  
MacKay, James  
Perkins, Randy  
Seldin, Gloria

### ROCKINGHAM

Belanger, Ronald  
Coes, Betsy  
Flanders, John Sr  
Gleason, John  
Johnson, Robert  
Langley, Jane  
McEachern, Paul  
Noyes, Richard  
Rausch, James  
Splaine, James  
Weare, E Albert

Blanchard, MaryAnn  
Corbin, Corey  
Francoeur, Sheila  
Gould, Kenneth  
Katsakiores, George  
Langone, John  
McKinney, Betsy  
Packard, Sherman  
Robertson, Carl  
Tufts, J Arthur  
Winchell, George

Bridle, Russell  
Dodge, Robert  
Gilbert, Jeffrey  
Griffin, Mary  
Katsakiores, Phyllis  
Major, Norman  
Morris, Richard  
Pantelakos, Laura  
Roessner, Kurt  
Vallone, Matthew  
Zolla, William

Casey, Kimberley  
Fesh, Bob  
Gillick, Thomas  
Ingram, Russell  
Kobel, Rudolph  
Manning, John  
Norelli, Terie  
Pitts, Jacqueline  
Shultis, Elizabeth  
Waterhouse, Kevin

### STRAFFORD

Bemis, Alan  
Callaghan, Frank  
Heon, Richard  
Keans, Sandra  
Schmidt, Peter  
Vachon, Dennis

Berube, Roger  
Campbell, W Packy  
Hofemann, Roland  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Bickford, David  
Creteau, Irene  
Johnson, Nancy  
Rollo, Deanna  
Spang, Judith

Brown, Julie  
Dunlap, Patricia  
Kaen, Naida  
Rous, Emma  
Taylor, Kathleen

### SULLIVAN

Burling, Peter  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

### NAYS 100

### BELKNAP

Ahern, Omer Jr  
Lawton, David

Allen, Janet  
Rice, Thomas

Boyce, Laurie  
Wendelboe, Fran

Laflam, Robert

### CARROLL

Babson, David Jr

Kenney, Bettie

### CHESHIRE

Hunt, John

Liebl, George

### COOS

Pratt, Leighton

Richardson, Herbert

### GRAFTON

Alger, John  
Gionet, Edmond  
Sorg, Gregory

Barker, Robert  
Giuda, Robert

Dorsett, Andrew  
Ingbretson, Paul

Gilman, G Michael  
Maybeck, Margie

### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Bergeron, Jean-Guy  
Cernota, Albert

Allan, Nelson  
Barry, J Gail  
Bruno, Pierre  
Christiansen, Lars

Allen, Timothy  
Batula, Peter  
Buhlman, David  
Crane, Elenore Casey

Artz, Lawrence  
Beaton, William  
Carter, Jeffrey  
Fields, Dennis

Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr	Hagan, Barbara
Harrington, Paul	Hawkins, Ken	Hopper, Gary	Hunter, Bruce
Jasper, Shawn	LaFlamme, Paul	Luebker, Bernard	McHugh, Claire
McRae, Karen	Mooney, Maureen	Mosher, William	Ober, Russell III
Pappas, Marc	Pepino, Leo	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Wheeler, James		

**MERRIMACK**

Field, William	Foley, Albert	Kennedy, Richard	Langer, Ray
Leber, William	Marple, Richard	McCormick, Tom	Nutter, Edward

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Cady, Harriet	Camm, Kevin
Carson, Sharon	Clark, Vivian	DiFruscia, Anthony	Duffy, James
Dumaine, Dudley	Gilbert, Karl	Headd, James	Itse, Daniel
Johnson, Rogers	Letourneau, Robert	McCann, Richard	Putnam, Ed II
Quandt, Matthew	Smith, Donald	Smith, Paul	Varrell, Thomas
Welch, David	Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert

**STRAFFORD**

Albert, Russell	Cataldo, Sam	Easson, Timothy	Harrington, Michael
Musler, George	Newton, Clifford	Scott, David	Woods, Phyllis

**SULLIVAN**

None

and the committee report was adopted.

**BILLS REMOVED FROM CONSENT CALENDAR**

**HB 1201**, prohibiting the application of the doctrine of adverse possession or prescription when boundary lines can be proven by a preponderance of the evidence. **INEXPEDIENT TO LEGISLATE**

Rep. Gregory M. Sorg for Judiciary: Under current law, RSA 508:2, the legal owner of land will lose ownership to a user who can prove twenty years of open, notorious, continuous and uninterrupted use of the land under a claim of right, hostile to the right of the legal owner. The primary purpose of this ancient rule is to enable ownership of land to be established in circumstances where an absentee owner has either abandoned it or cannot be determined or found, while a secondary benefit is to protect the investments of innocent trespassers against long negligent owners. Both are still important societal interests. Moreover, establishing the basis of and proving a claim of title by adverse possession and use is difficult, and is easily defeated during any given twenty year period by the exercise of reasonable diligence by the legal owner. Vote 14-0.

Rep. Bickford spoke against.

Rep. Rowe spoke in favor and yielded to questions.

On a division vote, 267 members having voted in the affirmative and 34 in the negative, the committee report was adopted.

**HB 1376**, relative to agency fees assessed pursuant to collective bargaining agreements and representation of certain employees in grievances. **OUGHT TO PASS WITH AMENDMENT**

Rep. Russell D. Bridle for Labor, Industrial and Rehabilitative Services: An amendment was submitted by the sponsor that the committee felt was a good description of an agency fee for the public employer bargaining unit. Vote 12-0.

**Amendment (0181h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to agency fees assessed pursuant to public employer collective bargaining agreements.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Definitions; Agency Fee. Amend RSA 273-A:1 by inserting after paragraph XI the following new paragraph:

XII. "Agency Fee" means the financial payment assessed upon non-members of an employee organization, certified by the board as the exclusive representative of a bargaining unit, to defray the cost of representation of the unit.

2 New Paragraph; Obligation to Bargain; Agency Fee; Notice of Rights. Amend RSA 273-A:3 by inserting after paragraph IV the following new paragraph:

V. In the event that an agreement negotiated under this section contains an agency fee provision, the exclusive representative shall inform non-member, agency fee payers that they have a right to an explanation of the basis of the agency fee and the opportunity to challenge the amount of the fee before an impartial decision maker.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill defines "agency fee" for purposes of public employer collective bargaining and requires the exclusive representative of the bargaining unit to provide certain information to non-member, agency fee paying employees.

Adopted.

Rep. James Wheeler spoke against.

Rep. Giuda spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

### YEAS 220 NAYS 83

#### YEAS 220

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Fitzgerald, James	Holbrook, Robert
Laflam, Robert	Nedeau, Stephen	Pilliod, James	

#### CARROLL

Brown, Carolyn	Derby, Mark	Hatch, Paul	McConkey, Mark
Philbrick, Donald	Stevens, Stanley		

#### CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Meador, David	Mitchell, McKim	Parkhurst, Henry	Richardson, Barbara
Robertson, Timothy	Royce, H Charles	Smith, Edwin	Tilton, Anna
Webber, Amy	Weed, Charles		

#### COOS

Guay, Lawrence	King, Frederick	Mears, Edgar	Poulin, Richard
Pratt, Leighton	Richardson, Herbert	Stohl, Eric	Toll, John Jr

#### GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Gilman, G Michael	Giuda, Robert	Hammond, Lee	Ingbreton, Paul
Maybeck, Margie	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Sorg, Gregory		

#### HILLSBOROUGH

Baroody, Benjamin	Barry, J Gail	Batula, Peter	Beaton, William
Brassard, Paul	Brundige, Robert	Buckley, Raymond	Buhlman, David
Carter, Jeffrey	Chabot, Robert	Christensen, D L Chris	Clemons, Jane
Cote, Peter	Coughlin, Pamela	Craig, James	Desmarais, Vivian
Dokmo, Cynthia	Drisko, Richard	Fields, Dennis	Gargas, Carolyn
Gonzalez, Carlos	Gorman, Mary	Graham, John	Hagan, Barbara
Hall, Charles	Hallyburton, Margaret	Haytayan, Harry Jr	Hunter, Bruce
Infantine, William	Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette

Johnson, Lionel  
LaFlamme, Paul  
Lessard, Rudy  
McRae, Karen  
O'Brien, Lori  
Pilotte, Maurice  
Rowe, Robert  
Stepanek, Stephen  
Tahir, Saghir

Katsiantonis, Thomas  
Lasky, Bette  
Malloy, Chris  
Michon, Stephen  
Pappas, Christopher  
Price, Pamela  
Schulze, Joan  
Sullivan, Francis  
Vaillancourt, Steve

Kopka, Angeline  
Leach, Edward  
Martin, Mary Ellen  
Mosher, William  
Pappas, Marc  
Reeves, Sandra  
Shaw, Barbara  
Sullivan, Peter

Kurk, Neal  
Lefebvre, Roland  
McHugh, Claire  
Movsesian, Lori  
Pepino, Leo  
Ross, Lawrence  
Spiess, Paul  
Sweeney, Cynthia

### MERRIMACK

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Hess, David  
L'Heureux, Stephen  
Perkins, Randy

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Potter, Frances

Clarke, Claire  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
Osborne, Jessie  
Rush, Deanna

Daniels, Eric  
Fraser, Leo Jr  
Hamm, Christine  
Kennedy, Richard  
Owen, Derek  
Seldin, Gloria

### ROCKINGHAM

Belanger, Ronald  
Carson, Sharon  
Corbin, Corey  
Flanders, John Sr  
Gleason, John  
Johnson, Rogers  
Langone, John  
McKinney, Betsy  
Pitts, Jacqueline  
Shultis, Elizabeth  
Waterhouse, Kevin  
Wiley, Robert

Blanchard, MaryAnn  
Casey, Kimberley  
DiFruscia, Anthony  
Francoeur, Sheila  
Griffin, Mary  
Katsakiores, George  
Letourneau, Robert  
Morris, Richard  
Quandt, Matthew  
Smith, Donald  
Weare, E Albert  
Winchell, George

Bridle, Russell  
Clark, Vivian  
Dodge, Robert  
Gilbert, Jeffrey  
Ingram, Russell  
Katsakiores, Phyllis  
McCann, Richard  
Norelli, Terie  
Robertson, Carl  
Splaine, James  
Welch, David  
Zolla, William

Cady, Harriet  
Coes, Betsy  
Fesh, Bob  
Gillick, Thomas  
Johnson, Robert  
Kobel, Rudolph  
McEachern, Paul  
Pantelakos, Laura  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr

### STRAFFORD

Albert, Russell  
Callaghan, Frank  
Harrington, Michael  
Kaen, Naida  
Rollo, Deanna  
Smith, Marjorie  
Wall, Janet

Bemis, Alan  
Cataldo, Sam  
Heon, Richard  
Keans, Sandra  
Rous, Emma  
Spang, Judith

Berube, Roger  
Creteau, Irene  
Hofemann, Roland  
Newton, Clifford  
Schmidt, Peter  
Taylor, Kathleen

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Pelletier, Arthur  
Scott, David  
Vachon, Dennis

### SULLIVAN

Burling, Peter  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

### NAYS 83

### BELKNAP

Boyce, Laurie  
Wendelboe, Fran

Lawton, David

Rice, Thomas

Thomas, John

### CARROLL

Babson, David Jr  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

Merrow, Harry

Mock, Henry

### CHESHIRE

Fish, Douglas

Hunt, John

Laurent, John

Liebl, George

### COOS

Woodward, David



**GRAFTON**

Alger, John	Barker, Robert	Dorsett, Andrew	Gionet, Edmond
Ham, Bonnie	Williams, Burton		

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Bergeron, Jean-Guy	Bruno, Pierre
Carter, Mark	Cernota, Albert	Christiansen, Lars	Crane, Elenore Casey
Dionne, Kimberley	Elliott, Larry	Gibson, John	Goyette, Peter Jr
Harrington, Paul	Hawkins, Ken	Hopper, Gary	Lawrence, James
Luebker, Bernard	Mercer, Robert	Mooney, Maureen	Ober, Russell III
Slocum, Lee	Souza, Kathleen	Tate, Joan	Wheeler, James

**MERRIMACK**

Field, William	Foley, Albert	Langer, Ray	Leber, William
Lockwood, Priscilla	Marple, Richard	McCormick, Tom	Nutter, Edward
Oliver, James	Reed, Dennis		

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Camm, Kevin	Dumaine, Dudley
Gilbert, Karl	Gould, Kenneth	Headd, James	Itse, Daniel
Langley, Jane	Major, Norman	Manning, John	Noyes, Richard
Packard, Sherman	Putnam, Ed II	Rausch, James	Tufts, J Arthur
Weyler, Kenneth			

**STRAFFORD**

Brown, Julie	Campbell, W Packy	Easson, Timothy	Musler, George
Woods, Phyllis			

**SULLIVAN**

Rodeschin, Beverly  
and the committee report was adopted.  
Ordered to third reading.

**HB 1299**, relative to the removal of the tax collector or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: This bill provides that an elected tax collector, an elected town clerk or an elected town treasurer may be removed from office by the governing body if that person fails to respond to allegations of wrong doing within the statutorily prescribed period of time. The bill was amended by adding the elected town treasurer, because the treasurer's position has the same process for removal. This bill also requires notice to the board of selectman by a candidate for any local office if the candidate has been removed from a prior bonded position. Vote 12-0.

**Amendment (0275h)**

Amend the bill by replacing section I with the following:

I Removal of Town Clerk. Amend RSA 41:16-c, I and II to read as follows:

I. The governing body shall notify *by certified mail with return receipt* the town clerk and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the town clerk shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

(b) *If the town clerk fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the town clerk from office as provided in paragraph V.*

Amend the bill by replacing section 3 with the following:

3 Removal of Tax Collector. Amend RSA 41:40, I and II to read as follows:

I. The governing body shall notify *by certified mail with return receipt* the tax collector and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the tax collector shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

*(b) If the tax collector fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the tax collector from office as provided in paragraph V.*

Rep. Patten spoke against.

Amendment failed.

Rep. Patten offered a floor amendment (0319h).

### Floor Amendment (0319h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

Amend the bill by replacing section 1 with the following:

1 Removal of Town Clerk. Amend RSA 41:16-c, I and II to read as follows:

I. The governing body shall notify *by certified mail with return receipt* the town clerk and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the town clerk shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

*(b) If the town clerk fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the town clerk from office as provided in paragraph V.*

Amend the bill by replacing section 3 with the following:

3 Removal of Tax Collector. Amend RSA 41:40, I and II to read as follows:

I. The governing body shall notify *by certified mail with return receipt* the tax collector and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the tax collector shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

*(b) If the tax collector fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the tax collector from office as provided in paragraph V.*

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Removal of Treasurer. Amend RSA 41:26-d, I and II to read as follows:

I. The governing body shall notify *by certified mail with return receipt* the treasurer and the commissioner of the department of revenue administration of its intention to proceed under this section by providing a written explanation and justification for the removal, along with a copy of the audit findings.

II.(a) Within 20 days of receiving the notification provided in paragraph I, the treasurer shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of the department of revenue administration and shall include written comment on each audit finding.

*(b) If the treasurer fails to respond at any step in the process under this section within the prescribed period of time, then the governing body shall be permitted to remove the tax collector from office as provided in paragraph V.*

#### AMENDED ANALYSIS

This bill provides that a tax collector, town clerk, or a treasurer may be removed from office without further due process if that person fails to respond to allegations of wrongdoing within the statutorily prescribed period of time.

This bill also requires notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

Rep. Patten spoke in favor.

Floor amendment (0319h) adopted.

Report adopted and ordered to third reading.

#### **HB 1346**, relative to income qualification in the elderly property tax exemption. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: This bill changes the type of income used for determining eligibility of an elderly person to receive the elderly property tax exemption from a net income to a gross income in RSA 72:39-a. The sponsor of this bill felt that using the gross income on the federal income tax form would be a better way of determining the appropriate amount of income to be used. When the committee looked into how the net income was arrived at in RSA 72:39-a, it felt that the way the law is written now is best. RSA 72:39-a states that net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof: (1) Life insurance paid on the death of an insured; (2) Expenses and costs incurred in the course of conducting a business enterprise; and (3) Proceeds from the sale of assets. If the bill were passed as introduced by the sponsor, these three deductions would not be allowed which raises the amount needed by the elderly to qualify for the property tax deduction. Vote 15-0.

Rep. Putnam spoke against.

Rep. Stohl spoke in favor.

Adopted.

#### **HB 1209**, relative to substances added to public water supplies. **INEXPEDIENT TO LEGISLATE**

Rep. David M. Lawton for Resources, Recreation and Development: This bill would ban any substance added to public drinking water or water supply without prior approval of the United States Food and Drug Administration and would also require that the substance meet federal drinking water standards. The one additive that has been stirring this debate for years is fluoride. Fluoride ban bills similar to this have been defeated many times before by the legislature. The Department of Environmental Services testified in opposition to the bill since the department already regulates additives to public water supplies and noted that those substances must presently meet nationally recognized health standards. Although the supporters of this bill made a strong case, the committee could find no reason to surrender our states rights to regulate public water supplies to a federal agency and are confident that our Department of Environmental Services is quite capable of assessing the health risks of water additives. Vote 12-1.

Rep. Hagan spoke against.

Rep. Lawton spoke in favor.

On a division vote, 238 members having voted in the affirmative and 61 in the negative, the committee report was adopted.

#### **HB 1129**, prohibiting smoking in vehicles when child passenger restraints are required. **INEXPEDIENT TO LEGISLATE**

Rep. William E. Mosher for Transportation: The proponents of this bill stated that smoke in a small contained area is harmful to children. The bill does not address smoke being harmful to children in other situations. Are we ready to ban smoking to all those who have children? Unless tobacco

becomes an illegal product the Committee did not feel it should be telling people that they cannot smoke on, or in private property. We all hope parents that smoke would not smoke in the immediate area of their children. Government cannot legislate common sense. Vote 11-0.

Rep. Hallyburton spoke against.

Rep. Packard spoke in favor.

On a division vote, 230 members having voted in the affirmative and 63 in the negative, the committee report was adopted.

## SENATE MESSAGE

### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 516**, relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth. (Amendments printed SJ 2/19/04)

Rep. Royce moved that the House concur and spoke in favor.

Rep. Edwin Smith spoke in favor.

Adopted.

## RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, March 11, 2004 at 10:00 a.m.

Adopted.

## LATE SESSION

### Third reading and final passage

**HB 1410**, relative to the release of information to persons receiving a child for placement.

**HB 1165**, relative to extending domestic violence protection orders.

**HB 1155**, clarifying alternative budget adoption procedures in school administrative units.

**HB 1355**, changing the name of the sweepstakes commission to the lottery commission.

**HB 812**, relative to state acquisition of privately-owned airports.

**HB 1135**, relative to appointment of the chief justice of the superior court.

**HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.

**HB 1298**, establishing a committee to study local dispute resolution for public employee labor relations.

**SB 431**, prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts.

**HB 1308**, relative to lobbying activities by state employees.

**HB 1261**, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.

**HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

**HB 1179-FN**, relative to driver education training reimbursement.

**HB 1183**, relative to transporting manufactured housing or modular buildings.

**HB 1243**, prohibiting the collection of biometric data.

**HB 1401-FN**, limiting the use of traffic signal preemption devices.

**SB 458**, relative to private driving instruction and exhibition facilities.

**HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils.

**HB 1292**, apportioning state representative districts.

**HB 1376**, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

**HB 1299**, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

## WITHOUT OBJECTION

Without objection, the Speaker requested that the Report of the Joint Legislative Ethics Committee be printed in the Permanent Journal.

### **SPECIAL REPORT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES REGARDING COMPLAINT #2003-3**

#### I. Introduction

The Legislative Ethics Committee received two complaints in September 2003, regarding the conduct of Representative John Edward Kerns with respect to his communications with the Dover School Board. Mr. Nickolas Skaltsis, as Chairman, made one of the complaints on behalf of the Board. Representative Raymond Buckley made the other complaint. The complaints alleged that Representative Kerns violated certain provisions of rules and law.

Following a review of the complaints, the Committee conducted an extensive preliminary investigation, in accordance with its procedural rules, and voted unanimously to initiate formal proceedings to inquire into the complaints. A formal statement of charges and notice of hearing was sent by certified mail to Representative Kerns on January 13, 2004, and a copy was hand-delivered to him on the same day. A formal hearing was held before the Committee on February 9, 2004. Representative Kerns did not appear at the hearing to present evidence or to contest the charges.

#### II. Charges

The Committee charged Representative Kerns with purposely violating Ethics Guidelines Section 1, Principles of Public Service, for conduct reflecting badly upon the legislature. The alleged conduct forming the basis of the formal charges is as follows:

- A) Acting in a manner, through the use of his office of state representative, that was threatening and intended to intimidate others, including public officials and members of the public, as evidenced by voice messages directed to the Dover School Board; and other conduct included in the public record;
- B) Using his title in a manner intended to make others believe that he was acting in an official capacity when that was not the case; and
- C) Negotiating a personal check with "State of New Hampshire" printed on its face with the intent that the payee believe that it was drawn on the good faith and credit of the State of New Hampshire and which was drawn on insufficient funds.

#### III. Findings

After hearing and consideration of the evidence, the Committee made the following findings:

##### A) Dover School Matter

Representative Kerns left three separate voice mail messages with the Dover School District, one on August 20, 2003, and two on August 23, 2003. In the first message, Representative Kerns identified himself as a "state representative" and claimed that the district had placed fliers on "several state vehicles" parked in the Dover Middle School parking lot. The fliers informed the vehicles' owners that they could no longer park in the lot pursuant to a Dover School District policy adopted on August 18, 2003. Representative Kerns claimed that the state vehicles had both authorization and a need to park in the lot. He demanded that the school district authorities who placed the fliers inform "this office" immediately regarding who designated the lot for students only and stated that he would "have a letter sent down" to the school authorities indicating that it was "not permissible" for their "agency" to regulate use of the lot.

The voice mail message was received by school district employees. Because of its tone and content, it was referred to the superintendent of schools and the chairman of the school board. Mr. Skaltsis responded by letter to the voice mail message by explaining the Dover School Board policy and by admonishing Representative Kerns not to use his elected title to influence school district employees.

In the second voice mail message, Representative Kerns responded to the letter sent by certified mail on August 22, 2003, from Mr. Skaltsis, and stated that Mr. Skaltsis was "confused" about his prior voice mail message. Representative Kerns stated that he had contacted the district office about the flier having been placed on Department of Transportation vehicles, not on his own vehicle. He stated that he would forward Mr. Skaltsis' reply to the Department of Transportation.

In the third message, Representative Kerns stated he “couldn’t wait to strike down” Mr. Skaltsis’ “program” in the legislature.

Representative Kerns used his legislative office to intimidate the Dover school administrators in his first voice mail message and to threaten them in his third voice mail message. He used his title to make the Dover school administrators believe that he was acting in an official capacity, including advocacy on behalf of a state agency, when that was not the case.

#### B) H&H Locksmith Company Matter

Representative Kerns negotiated a check in the amount of \$90 with the H&H Locksmith Company on April 7, 2003. The check, which had “State of New Hampshire” printed on its face, was subsequently returned for insufficient funds. Representative Kerns, when contacted by Mr. Troy Hartson, the owner of H&H Locksmith Company, threatened Mr. Hartson by stating that as a state representative he could “make things very difficult” for Mr. Hartson, as a small business owner, if he continued his attempts to collect on the check.

#### C) Furniture World Matter

Representative Kerns negotiated a check in the amount of \$3,995 with Furniture World on September 11, 2003, for furniture delivered to his personal residence the following day. The check had “Hon. John E. Kerns” and “State of New Hampshire” printed on its face, and was subsequently returned for insufficient funds. Representative Kerns represented to Furniture World that the check was a “government check.”

Representative Kerns has demonstrated no remorse for his inappropriate conduct. He has failed to acknowledge that his acts have reflected negatively upon the Legislature. Furthermore, Representative Kerns has provided the Committee with no assurance that he will refrain from similar behavior in the future.

#### IV. Conclusion

Based upon the evidence, the Committee finds by clear and convincing evidence that the charges set forth above are substantiated. The conduct of Representative Kerns is in violation of Ethics Guidelines, Section 1, Principles of Public Service. He has violated the public trust by using the powers and resources of his office to advance his own interests in a manner incompatible with the public good. He has engaged in a pattern of behavior that fails to meet the standard of conduct expected of a state representative. He has brought disrespect upon himself and dishonor to the position he holds.

#### V. Recommendation

Removal from an elected position is a punishment to be administered only in the most egregious circumstances. Indeed, no one has been removed in such a manner from the New Hampshire House since 1913. But, the conduct of Representative Kerns warrants such an action, not simply because he has abused the trust placed in him by the public, but because he apparently believes that he is entitled to engage in such misconduct. After thorough consideration, the Committee recommends the expulsion of John Edward Kerns from the House of Representatives.

Dated at Concord, New Hampshire, this 18<sup>th</sup> day of February 2004.

Respectfully submitted,  
Edward M. Gordon, Vice Chairman<sup>1</sup>  
Representative Janet G. Wall  
Senator Jane E. O’Hearn  
Senator Joseph A. Foster  
Russell F. Hilliard  
Al Picconi

<sup>1</sup>Representative Shawn N. Jasper, the Committee’s Chairman, recused himself from all proceedings following the formal hearing and did not participate in the deliberations in this complaint.

#### **UNANIMOUS CONSENT**

Reps. Kennedy, Peter Allen and Jacobson addressed the House.

#### **WITHOUT OBJECTION**

Without objection, the Speaker requested the remarks of Rep. Jacobson be printed in the Permanent Journal.

**REMARKS**

Rep. Jacobson: Thank you, Mr. Speaker. I was surprised when several people came up to me to say "Oh, today is your Iwo Jima speech." Today marks the 59<sup>th</sup> anniversary of the landing at Iwo Jima. I was thinking about all of my fellow Marines who still survive. They are all at least 77 or 78 years of age. Someone told me today that the 16 million World War II veterans, is now down to 4 million veterans. Seventy-five percent have gone to their reward.

As I have said before, I say this not just to be saying it, but because I want to honor my fellow Marines, particularly those who became casualties. There was a total of more than 28,000 casualties. Nearly one in every two Marines that landed on Iwo suffered either injury, death or some other kind of bad thing happening to them.

So I want to honor them again and I want to say to you, you won't have to listen to me again because this is the last time I'm going to give this little speech. Thank you.

**RECESS MOTION**

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 4:15 p.m.

**RECESS**

**(Rep. Mercer in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 516 and Senate Bills numbered 431 and 458.

Rep. Francoeur, Sen. D'Allesandro for the Committee

**RECESS**

**(Rep. Hunt in the Chair)**

**RESOLUTION**

Rep. Meader offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 312, 318, 320, 336, 362, 379, 381, 400, 401, 409, 424, 432, 439, 454, 459, 487, 494, 513, 530 and Senate Concurrent Resolution numbered 6 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

**INTRODUCTION OF SENATE BILLS and SCR****First, second reading and referral**

**SB 312-FN**, establishing a state code of ethics. (Executive Departments and Administration)

**SB 318**, relative to the applicability of driving while intoxicated prohibitions. (Criminal Justice and Public Safety)

**SB 320-FN**, relative to penalties for damaging emergency vehicles. (Criminal Justice and Public Safety)

**SB 336-L**, relative to certain costs in the development of a high school in the town of Bedford. (Finance)

**SB 362**, changing the name of the college for lifelong learning to Granite state college. (Executive Departments and Administration)

**SB 379**, relative to safety inspection and certification of certain equipment of vehicles. (Transportation)

**SB 381**, relative to the transfer of certain capital appropriations within the department of safety. (Public Works and Highways)

**SB 400**, relative to real estate appraisals conducted for mortgage loan applicants. (Commerce)

**SB 401-FN**, relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system. (Public Works and Highways)

**SB 409-FN**, revising the vocational school licensing statutes. (Executive Departments and Administration)

**SB 424-FN**, relative to boating and carnival-amusement regulation by the department of safety. (Criminal Justice and Public Safety)

**SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety. (Executive Departments and Administration)

**SB 439**, relative to probationary drivers' licenses. (Criminal Justice and Public Safety)

**SB 454-FN**, relative to carrying a concealed weapon without a license. (Criminal Justice and Public Safety)

**SB 459**, making certain changes to the real estate practice act. (Executive Departments and Administration)

**SB 487**, relative to lead sinkers. (Fish and Game)

**SB 494**, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs. (Fish and Game)

**SB 513**, relative to the death penalty. (Criminal Justice and Public Safety)

**SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway. (Transportation)

**SCR 6**, designating January as stalking awareness month. (Executive Departments and Administration)

## RECESS

(Rep. Phyllis Katsakiores in the Chair)

### RESOLUTION

Rep. Letourneau offered the following: **RESOLVED**, that the late filing and drafting of the following bills having been approved by the Rules Committee, in accordance with the list in the possession of the Clerk, House Bills numbered 1427 and 1428, shall be by this resolution read a first and second time by the therein listed titles, sent for printing, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF SUPPLEMENTAL HOUSE BILLS,

### First, second reading and referral

**HB 1427**, continuing the New Hampshire National Guard Educational Assistance Act. (Coughlin, Hills 45; D. Fields, Hills 58; Barnes, Dist 17; Kenney, Dist 3: State-Federal Relations and Veterans Affairs)

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Burling, Sull 19; Whalley, Belk 31; M. Smith, Straf 72; Wallner, Merr 40; Larsen, Dist 15; D'Allesandro, Dist 20: Finance)

## RECESS

(Rep. Edwin Smith in the Chair)

### RESOLUTION

Rep. Chandler offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 340, 348, 367, 383, 388, 397, 414, 430, 467, 478, 482, 505, 509, 510, 512, 518 and 529 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF SENATE BILLS

### First, second reading and referral

**SB 340**, relative to the release of information on fish stocking by the executive director of fish and game. (Fish and Game)



- SB 348**, relative to the sale of manufactured housing and the management of manufactured housing parks. (Commerce)
- SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004. (Commerce)
- SB 383-FN**, relative to pharmacy benefit management. ( Health, Human Services and Elderly Affairs)
- SB 388-FN**, relative to proof of successful completion of an impaired driver intervention program. (Criminal Justice and Public Safety)
- SB 397**, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program. (Science, Technology and Energy)
- SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. (Municipal and County Government)
- SB 430-FN**, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers. (Commerce)
- SB 467**, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry. (Municipal and County Government)
- SB 478-FN**, relative to penalties for DWI offenses. (Criminal Justice and Public Safety)
- SB 482-FN**, relative to captive insurance companies and reciprocal insurers. (Commerce)
- SB 505-FN-A-L**, authorizing CROP zone tax credits for taxpayers within the town of Whitefield. (Ways and Means)
- SB 509-FN**, relative to civil recoveries for false claims paid or approved by the department of health and human services. (Judiciary)
- SB 510-FN**, relative to simple assault. (Criminal Justice and Public Safety)
- SB 512-FN**, establishing a Lake Sunapee public access commission. (Resources, Recreation and Development)
- SB 518**, establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study. (Public Works and Highways)
- SB 529**, making a technical correction to the eminent domain procedure act. (Public Works and Highways)

## RECESS

### (Speaker Chandler in the Chair)

Rep. Hess moved that the House adjourn.  
Adopted.

**HOUSE JOURNAL No. 7**

Thursday, March 11, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

His Excellency, Governor Craig Benson, joined the Speaker on the rostrum for the day's opening ceremonies.

Prayer was offered by Guest Chaplain, The Reverend Heath Civetta, Assistant Rector of Saint Paul's Episcopal Church in Concord.

Holy One, in the many ways in which we know You, may we serve You faithfully as good stewards of Your house. May we be quick to listen for Your instruction, eager to respond to Your leading and open to see Your signs of hope for all. Thank You for the privilege it is to be a steward of Your time, land and vision for Your people. May Your will be done. And may You smile on us at the end of the day and say, "Well done, my good and faithful servant." Amen.

Rep. Jessie L. Osborne led the Pledge of Allegiance.

The National Anthem was sung by Heather Bacon, a junior from Merrimack Valley High School.

**LEAVES OF ABSENCE**

Reps. Cady, Carlson, Dewhirst, Flanagan, Ford, Guay, Lessard, McDonough-Wallace, Pitts, and Scamman, the day, illness.

Reps. Barody, Jeffrey Carter, Chabot, Dexter, Drisko, Duffy, Jeffrey Gilbert, Haytayan, Charles Laflamme, Major, McCann, Ober, Perkins, Philbrick, Schulze, Francis Sullivan, Wallner and Webber, the day, important business.

Reps. Holden and Lefebvre, the day, illness in the family.

**INTRODUCTION OF GUESTS**

Meredith Reid, guest of Rep. Alger. John Pelletier, son of Rep. Pelletier. Mr. and Mrs. Richard DeBrine, guests of Reps. Phinizy and Ferland. Honorable Winston McCarty, guest of the Speaker. Honorable Robert Davidson, guest of Rep. De Joie. Alan Sokolow, Wendell Hannaford and Marge Kilkelly, guests of the House.

**COMMUNICATIONS**

March 10, 2004

Karen Wadsworth, Clerk of the House.

Please be advised that the following representatives-elect were sworn into office by the Governor and Council on this day:

Merrimack County District No. 34, Beth Rodd, d, Bradford (P.O. Box 337) 03221

Rockingham County District No. 77, John Dowd, r, Derry ( P.O. Box 1596) 03038

William M. Gardner, Secretary of State

February 26, 2004

Gene G. Chandler, Speaker of the House

Dear Mr. Speaker:

Please accept my resignation as a State representative for Rockingham County, District 80, effective immediately. It has been an honor and privilege to have served with you in the House, both in your current leadership position and as a colleague and friend in the years prior to that appointment.

I have permanently relocated to the State of Mississippi and I am truly excited about all of the new opportunities and adventures that I will undertake in my new home.

Again, Mr. Speaker thank you for your friendship.

Most respectfully submitted,

Rep. Mary Lou Flayhan

Rockingham County, District 80

The Speaker accepted the resignation with regret.

The House of Representatives offered the following:

### HOUSE RESOLUTION 25

Memorializing State Representative Robert H. Milligan of Merrimack

WHEREAS, we have learned with great sorrow of the death of our friend and colleague Robert H. Milligan, who was in his sixth term of dedicated service to his Merrimack constituents; and WHEREAS, in addition to representing his community in the House of Representatives, Robert Milligan was an active participant on the Merrimack Parks and Recreation Commission, the Wasserman Park Committee, the Merrimack Youth Association, the Merrimack High School Football Quarterback Club, the town budget committee, and the town water district commission; and WHEREAS, having spent two terms in the House on the Public Protection and Veterans Affairs Committee, three on the Transportation Committee and serving this term as a member of the Committee on Executive Departments and Administration, Bob Milligan was always ready to take on new and challenging responsibilities, as evidenced by his also having served as a member of the Rules Committee since 1999; and,

WHEREAS, having been named the 2002 Legislator of the Year by the New Hampshire Association of Counties, Bob Milligan was known as a man who was passionate in his pursuit of legislation to improve the safety of New Hampshire's citizens; and

WHEREAS, having served with the United States Navy in Korea, Robert H. Milligan was a member of the American Legion, the Veterans of Foreign Wars and was actively involved in the creation of the New Hampshire State Veterans Cemetery; and

WHEREAS, Robert Milligan was a founder and served as chairman of the legislative aviation group and enjoyed many other interests - among them traveling, horses and harness racing; now therefore, be it

RESOLVED, by the House of Representatives in Regular Session convened, that Robert H. Milligan be granted the highest praise for his outstanding and dedicated service to the state, and be it further

RESOLVED, that expressions of heartfelt sympathy be extended to his family and all who loved him, and that a suitable copy of this Resolution be prepared for presentation to his family.

Unanimously adopted by a rising moment of silence.

The Speaker recognized Rep. Milligan's wife, Barbara, son Kevin and his wife, Cynthia, and son Michael and his wife, Kathleen, guests of the House.

### SENATE MESSAGES

#### CONCURRENCE

**HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities.

#### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 121**, relative to grounds for modification of a permanent child custody order. (Amendment printed SJ 1/07/04)

Rep. Moran moved that the House concur and spoke in favor.

Adopted.

**HB 620-FN** providing a right to counsel for indigent parents and other protections in cases involving the guardianship of minors. (Amendment printed SJ 1/07/04)

Rep. Moran moved that the House concur and spoke in favor.

Adopted.

**HB 464**, establishing a criminal penalty for facilitating a drug or underage alcohol house party. (Amendment printed SJ 1/29/04)

Rep. Welch moved that the House concur.

Rep. Knowles spoke in favor.

Adopted.

**HB 749**, relative to the description in a criminal complaint of the party accused. (Amendment printed SJ 1/07/04)

Rep. Welch moved that the House concur.

Rep. Stevens spoke in favor.

Adopted.

**HB 258**, relative to the regional community-technical college system. (Amendments printed SJ 1/29/04)

Rep. O'Neil moved that the House concur and spoke in favor.

Rep. Edwin Smith spoke in favor.

Adopted.

**HB 65**, relative to educational assistance for national guard members. (Amendment printed SJ 3/04/04)

Rep. Coughlin moved that the House concur and spoke in favor.

Adopted.

## COMMITTEE REPORTS

### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 1419**, relative to the dispensing of non-controlled prescription drugs by registered nurses in certain facilities under contract with the department of health and human service, removed by Rep. Hagan.

**HB 1328**, requiring the development of a plan for the elimination of county government by the year 2011, removed by Rep. Jacobson.

**HB 1405-L**, relative to requiring municipalities to use official ballot voting procedures for bond issues, removed by Rep. Dodge.

**HB 1221**, establishing a committee to study repealing universal service telephone charges, removed by Rep. McElroy.

Consent Calendar adopted.

Rep. DeJoie declared a conflict of interest on HB 651 and did not participate in the Consent Calendar vote.

**HB 1130**, relative to certain insurance agents. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald H. Flanders for Commerce: This bill exempts insurance agents who are exclusive agents to one insurance company (i.e. do not own their own book and business) from the law regarding termination of agents. Since these insurance agents are subject to provisions of the contract they have with the insurer that they represent, it is inappropriate for the current law related to termination to include them. Vote 12-0.

### Amendment (0239h)

Amend the bill by replacing section 1 with the following:

IV. This section shall not apply to business owned by the insurer and not the agent; provided, that the insurer offers to continue such policies through another of its agents.

### AMENDED ANALYSIS

This bill exempts insurance agents who do not own their book of business from the law regarding termination of agents.

**HB 1133**, relative to disclosures required prior to a condominium sale. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: The intent of this bill is to insure that the prospective buyers of condominiums have full knowledge of the rules, regulations and finances of the condominium association. The bill, as amended by the committee, requires that a disclosure be added to a purchase and sales agreement which provides written notice to the buyer of their right to obtain information as required in RSA 356-B (the condominium act). The bill further amends RSA 356-B: 58 by expanding the information to be made available to include condominium declarations, by-laws and monthly annual and special assessments within the past three years. Vote 12-0.

### Amendment (0404h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Notification Required Prior to Condominium Sale. Amend RSA 477 by inserting after section 4-e the following new section:

477:4-f Notification Required Prior to Condominium Sale. Prior to or during the preparation of an offer for the purchase and sale of any condominium unit, the seller shall provide written notice to the buyer that the buyer has the right to obtain the information in RSA 356-B:58, I from the condominium unit owners' association. Such information shall include a copy of the condominium declaration and by-laws, a statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years. The buyer shall acknowledge receipt of the notice required under this section by signing a copy thereof.

2 New Subparagraphs; Condominium Act; Resale by Purchaser; Right to Condominium Instruments and Statement of Fees. Amend RSA 356-B:58, I by inserting after subparagraph (g) the following new subparagraphs:

(h) A copy of the condominium declaration and by-laws.

(i) A statement of the amount of monthly and annual fees, and any special assessments made within the last 3 years.

3 Notice of Disclosure Requirements. On or before December 1, 2004, the unit owners' association shall inform all unit owners of the requirements of RSA 477:4-f.

4 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect upon its passage.

**HB 1149**, relative to the provision of credit reports to consumers. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill would require consumer reporting agencies to provide a consumer with one free consumer report per year. The federal Fair and Accurate Credit Transactions Act which became effective on December 4, 2003, provides that a consumer is entitled to one free copy of his or her credit report per year. This being so, this bill is not necessary. Vote 12-0.

**HB 1161**, relative to solicitation and marketing of insurance products. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The bill amends a provision in the state laws governing the sale of insurance by banks and credit unions, which requires them to sell insurance products in an area separate and distinct from their lending and deposit-taking activities. The bill brings state law into compliance with the Gramm-Leach-Bliley Act, which provides that the manner in which states regulate the sale of insurance products cannot be more adverse to depository institutions than it is to other persons providing the same products or services. Since the state does not place the same segregation requirements on insurance companies and insurance agencies that conduct insurance activities and accept deposits or make loans in the same area, the bill was necessary to address the issue of fairness and competitive equality. As amended, the bill continues to require depository institutions to keep insurance sale activities separate and distinct from areas where retail deposits are routinely accepted. Language was added to the bill requiring financial institutions to give written disclosure to a prospective borrower stating that the extension of credit is not contingent upon the purchase of the institution's insurance products. In addition, the bill will now require financial institutions to obtain the customer's express written acknowledgement that he/she received the disclosure. Since the Gramm-Leach Bliley Act does not apply to credit unions, the bill was amended to provide them with the same anti-discriminatory protections afforded to banks. Having addressed all concerns raised at the public hearing and in subcommittee work sessions, agreement was reached among members of the committee and representatives from the insurance industry, banking industry and credit unions. Vote 12-0.

#### Amendment (0477h)

Amend the bill by replacing all after the enacting clause with the following:

1 Sales of Insurance by Financial Institutions; Separation of Activities. Amend RSA 406-C:7, I to read as follows:

I. A financial institution shall, to the extent practicable, keep the area where the bank conducts transactions involving insurance products or annuities physically segregated from areas where retail deposits are routinely accepted from the general public [~~or credit transactions are conducted~~], identify the areas where insurance product or annuity sales activities occur, and clearly delineate and distinguish those areas from the areas where the bank's retail deposit-taking activities or credit transactions occur[; ~~provided that this section shall not apply to the sale of credit life insurance;~~

credit accident and health insurance, mortgage life insurance and mortgage disability insurance, credit involuntary unemployment insurance, and private mortgage insurance issued under a certificate of a bank policy].

2 Prohibition on Tying of Banking and Insurance Products. Amend RSA 406-C:10, II to read as follows:

*II. A financial institution that solicits, sells, advertises, or offers insurance, and any person who solicits, sells, advertises, or offers insurance on behalf of a financial institution or on the premises of a financial institution shall obtain written acknowledgment of the receipt of the disclosure from the customer at the time the customer receives the disclosure. If the solicitation is conducted by telephone, the person or financial institution shall obtain an oral acknowledgment of receipt of the disclosure, maintain sufficient documentation to show that the acknowledgment was given by the customer, and make reasonable efforts to obtain a written acknowledgment from the customer. If a customer affirmatively consents to receiving the disclosures electronically and if the disclosures are provided in a format that the customer may retain or obtain later, the person or financial institution, may provide the disclosure and obtain acknowledgment of the receipt of the disclosure from the customer using electronic media.*

*III.* The completion of a loan transaction or other transactions involving the extension of credit shall not be delayed or impeded by an officer or employee of a financial institution for the purpose of influencing a customer's selection or purchase of insurance.

3 Effective Date. This act shall take effect upon its passage.

**HB 1163**, establishing a commission to study methods of increasing the number of insurance carriers doing business in New Hampshire. **INEXPEDIENT TO LEGISLATE**

Rep. Kathleen N. Taylor for Commerce: Testimony at the public hearing suggested that the reason this legislation was introduced was due to the difficulties in obtaining certain insurance for example, for people working in the woods and for antique cars. To establish a committee that would focus on ways of getting more insurance companies into the state and thereby creating a more competitive environment, is very laudable but would not work alone. New Hampshire has more than enough insurance companies doing business in the state. The problem is that the logging business is a very high risk business and no matter how many companies are licensed, the rates would not necessarily drop. It was difficult knowing, without more information, why one of the sponsor's constituents had difficulty in obtaining insurance on an antique automobile. Vote 12-0.

**HB 1180**, relative to the creation of express trusts for pets. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The sponsor's intent is to create a new chapter authorizing the creation of legal trusts for pets. During testimony it was learned that this issue is covered in HB 1224, which creates a uniform trust code. The sponsor agreed to defer consideration of this issue to the larger bill. Vote 12-0.

**HB 1210**, relative to self-service storage facility liens. **OUGHT TO PASS**

Rep. Paul D. Spiess for Commerce: Under current law, liens on "self storage facilities" including both motor vehicles and personal property, must be filed with the Division of Motor Vehicles, the Secretary of State, and the town clerk where the storage facility is located. This bill removes the requirement to file liens with the town clerk. Liens on motor vehicles would be filed with the DMV and liens on personal property would be filed with the Secretary of State. Vote 13-0.

**HB 1233**, relative to the accuracy of information used by consumer reporting agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation would have prohibited consumer reporting agencies from adding tradeline updates to the consumer's file if the creditor does not provide an exact match of a social security number. This would in effect stop full and accurate financial reporting. The new Federal Fair and Accurate Credit Transactions Act (FACTA) became effective December 4, 2003 and addresses many issues regarding credit reporting agencies. It also requires the Federal Trade Commission to study the accuracy and completeness of information contained in a consumer report as well as methods to improve accuracy. A report of the study is due by December 4, 2004 and a final report on December 4, 2005. The committee felt that since the new law has only recently become effective, and that the very topic of accurate social security numbers will be studied further, we should await that initial report before considering legislation at the state level. The committee feels strongly that accuracy of social security numbers is vital in

the gathering of information by credit reporting companies. Should the federal government not address the issue during the current ongoing study, we agree with the sponsor that we should revisit the issue at the state level. Vote 12-0.

**HB 1240**, prohibiting minors from sitting in the smoking sections of restaurants. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation, although noble in its intent would be extremely difficult to enforce. Most children under the age of 18 are in the company of one or more adults when visiting restaurants. If the adult opts to sit in the smoking section it would be very difficult for the proprietor to act as a referee as to where the customer(s) will be seated. In the view of the committee, this is an "adult call" and shouldn't be left to the restaurant proprietor. Vote 11-1.

**HB 1252-FN**, requiring the posting of notice by uninsured liquor licensees. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The intent of this bill is to require liquor licensees who do not carry "liquor liability insurance" to post a notice at their place of business that such coverage is not available. The committee doubts that such notification would materially affect consumer's decisions or accomplish any useful purpose. Responsible licensees will obtain the coverage to protect their own interests. Those who do not obtain such coverage probably won't remain in business for long. Several non-germane amendments were brought to the committee to make technical corrections to the liquor licensing statute. The committee felt that this was not the vehicle to address those issues. Vote 11-2.

**HB 1267**, requiring fast food restaurants to provide nutritional information to consumers. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: The aim of this legislation is an effort to address a national problem-obesity. The bill as written would require all fast food restaurants to provide nutritional information to consumers. The sponsor had brought in an amendment that would require fast food restaurants to only post calories, but would also require all chain restaurants (10 or more) to publish calories, fat, saturated fat, and sodium on all regular menus. The committee felt that in most instances this information is available upon request, and is on the Internet. To post this information would place an undue burden on restaurants that would not be required of other businesses. Vote 10-2.

**HB 1305**, establishing a committee to study certain high interest loans. **INEXPEDIENT TO LEGISLATE**

Rep. Paul D. Spiess for Commerce: The purpose of this bill is to study "high rate" lending practices. Last year the legislature passed a bill regulating "payday loans" and "title loans". The state of New Hampshire does not have a usury law and does not regulate or cap interest rates. While we recognize that high risk/high rate lending has the potential for abuse, the new regulatory scheme went into effect in July of 2003 and it is premature to study this issue until our regulations are in effect long enough for the accumulation of data and the investigation of complaints. Vote 12-0.

**HB 1319**, relative to the percentage of ownership in physician hospital organizations. **REFER FOR INTERIM STUDY**

Rep. Paul D. Spiess for Commerce: The original intent of this bill was to limit ownership by physicians, nurses or any individual having the ability to refer patients, to not more than 15% of physician hospital organizations. The underlying issue is the potential for a conflict of interest if physicians have an ownership interest in ancillary service providers such as physical therapy, radiology, or laboratory facilities, to whom they refer patients. Under a law passed in 1993 physicians are required to disclose to patients any ownership interests in organizations to which they refer business. Such disclosures are supposed to be monitored by the Department of Health and Human Services. It appears that this provision of the law has not been monitored or enforced. The issue before the committee is how to ensure compliance with the disclosure requirements and what agency should exercise supervision. The committee believes further study is necessary to arrive at a satisfactory conclusion. Vote 12-0.

**HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This proposed legislation is an effort to bring banking laws into the 21<sup>st</sup> century. It requires that all licensees abide by state and federal laws and regulations. It requires businesses to supervise employees and branch offices. It prohibits representations that the business is recommended by the New Hampshire Banking Department. It requires prepayment of fee before license is issued and allows for revocation of a license when there are grounds, despite withdrawal from the state of the licensee. There are now penalties for failure to surrender the license. Also there is now a show cause procedure prior to a hearing. It requires posting of the license. It also makes uniform the definition of mortgage bankers and brokers. Vote 12-0.

### Amendment (0609h)

Amend the bill by replacing all after the enacting clause with the following:

1 Definitions; Retail Seller; Location. Amend RSA 361-A:1, XII to read as follows:

XII. "Retail seller" or "seller" means a person who sells a motor vehicle *in this state or* to a retail buyer under or subject to a retail installment contract.

2 Definitions; Sales Finance Company. Amend the introductory paragraph of RSA 361-A:1, XIII to read as follows:

XIII. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly, in the business of providing *motor vehicle* financing *in this state* to one or more retail buyers, or in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to any federally chartered bank, savings bank, trust company, credit union, cooperative bank, finance company, lending agency, industrial bank, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon, nor does it include a retail seller who:

3 Licensing of Sales Finance Companies and Retail Sellers Required; Responsibility for Supervision Added. Amend RSA 361-A:2, I to read as follows:

I. No person shall engage in the business of a sales finance company or retail seller in this state without a license therefor as provided in this chapter. *Persons subject to this chapter shall be responsible for the supervision of their employees, agents and branch offices.* No federally chartered bank, savings bank, trust company, credit union, cooperative bank, or industrial bank shall be required to obtain such a license but shall comply with the provisions of RSA 361-A:7-12, unless otherwise exempted in this chapter.

4 New Paragraphs; Licensing of Sales Finance Companies and Retail Sellers Required; No Implied Approval by the Commissioner. Amend RSA 361-A:2 by inserting after paragraph XII the following new paragraphs:

XIII. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

XIV. Any license fee required by this chapter shall be paid before a license may become effective.

5 License Surrender; Effective Date. Amend RSA 361-A:2-a to read as follows:

361-A:2-a License Surrender.

I.(a) A licensee who ceases to engage in the business of a sales finance company or retail seller at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

(b) *Withdrawal of the surrendered license becomes effective 30 days after receipt of the license by the commissioner or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 361-A:3 within one year after the withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.*



II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications *and the imposition of penalties under RSA 361-A:11.*

6 Annual Report. RSA 361-A:2-b, I is repealed and reenacted to read as follows:

I.(a) Each sales finance company licensee shall file, under oath, an annual report with the commissioner on or before February 1 each year concerning operations for the preceding year or license period ending December 31 upon a form prescribed by the commissioner

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in paragraph I(a), notwithstanding the fact that he or she is not licensed on the date that the report is due.

(c) Each sales finance company shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the sales finance company. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

(d) In lieu of the requirements of subparagraph (c), licensees may submit copies of their most recent Securities and Exchange Commission Form 10-K and Form 10-Q statements.

7 Annual Report; Maximum Penalty for Noncompliance. Amend RSA 361-A:2-b, III to read as follows:

III. Any sales finance company failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue *to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocations of its license.*

8 Suspension or Revocation of Licenses; Procedure. Amend RSA 361-A:3, I to read as follows:

I. *The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for a hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, the person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.*

I-a. The commissioner may, by order, deny, suspend, or revoke any license or application if the commissioner finds that the order is in the public interest and the applicant, or licensee, any partner, officer or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

9 Cease and Desist Orders. RSA 361-A:3-a is repealed and reenacted to read as follows:

### 361-A:3-a Cease and Desist Orders.

I. Whenever the commissioner has reasonable cause to believe that any person is engaging in the business of a sales finance company or retail seller without obtaining a license as provided in this chapter, or has engaged or is about to engage in any act or practice constituting a violation of this chapter, or any rule or order under this chapter, the commissioner may, in addition to all actions provided for in this chapter, enter an order requiring such person to cease and desist from such violation. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. All hearings shall comply with RSA 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be decided against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

II. If any person refuses to obey such order, an action may be brought by the commissioner or by the attorney general on the commissioner's behalf in any superior court in this state to enjoin such person from engaging in or continuing such violation or from doing any act or acts in furtherance of such violation. In any such action, an order or judgment may be entered awarding a temporary or permanent injunction, and awarding the commissioner or the attorney general or both costs in bringing such action. The court shall have the power to enforce obedience to such injunction, in addition to all the court's customary powers, by a fine not exceeding \$10,000 or by imprisonment, or both.

10 New Section; Books and Records. Amend RSA 361-A by inserting after section 9 the following new section:

361-A:9-a Books and Records. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

11 New Section; Applicability. Amend RSA 361-A by inserting after section 11 the following new section:

361-A:11-a Applicability. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

12 New Paragraphs; Application of Other Laws. Amend RSA 397-A:2 by inserting after paragraph II the following new paragraphs:

III. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

IV. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

V. Any license fee required by this chapter shall be paid before a license may become effective.

13 License Grant. RSA 397-A:6, I and II are repealed and reenacted to read as follows:

I. If the commissioner determines that the applicant meets the requirements of this chapter, then the commissioner shall forthwith issue a license or licenses permitting the applicant to engage in the business of making or brokering first mortgage loans in accordance with the laws of this state. Licensees shall be responsible for the supervision of their employees, agents, loan originators and branch offices.

II. No license shall be issued to any person whose principal place of business is located outside of this state unless that person designates an agent residing within this state for service of process.

14 License Surrender. Amend RSA 397-A:10-a to read as follows:

397-A:10-a License Surrender.

1.(a) A licensee who ceases to engage in the business of a first mortgage banker or first mortgage broker at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

*(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 397-A:17 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.*

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications *and the imposition of penalties under RSA 397-A:21.*

15 New Paragraph; Record Keeping; Rules. Amend RSA 397-A:11 by inserting after paragraph III the following new paragraph:

IV. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

16 New Paragraph; Annual Report; Non-Licensees. Amend RSA 397-A:13 by inserting after paragraph I the following new paragraph:

I-a. A person who surrenders, withdraws or does not renew a license shall file the annual report as required in paragraph I, notwithstanding the fact that he or she is not licensed on the date that the report is due

17 Annual Report; Maximum Penalty for Noncompliance. Amend RSA 397-A:13, IV to read as follows:

IV. Any [licensee] *first mortgage banker, first mortgage broker, or first mortgage banker and broker* failing to file either the annual report or the financial statement required by this section within the time prescribed may be required to pay to the banking department a penalty of \$25 for each calendar day the annual report or financial statement is overdue ~~[The penalties for failure to file an annual report that are prescribed by this paragraph shall not apply to mortgage brokers licensed under this chapter who earned no money from purchasing, placing or selling first mortgage loans during the preceding year and who indicate such in writing to the banking department on or before February 1.]~~ *to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocation of its license.*

18 Borrower's Rights. RSA 397-A:15, V is repealed and reenacted to read as follows:

V. Persons subject to or licensed under this chapter that service first mortgage home loans on real property located in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge.

V-a. Licensees that service first mortgage home loans originated in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge.

19 License Revocation; Procedure. The introductory paragraph of RSA 397-A:17, I is repealed and reenacted to read as follows:

I. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, such person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may by order, upon due notice and opportunity for hearing, assess penalties, deny, suspend or revoke a license if it is in the public interest and the applicant or licensee, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

20 Application of Chapter; Supervision Requirement. Amend RSA 397-B:2 is repealed and reenacted to read as follows:

397-B:2 Application of Chapter.

I. This chapter shall provide for the banking department's regulation of mortgage servicing companies that engage in the business of servicing first mortgage loans secured by real property located in the state of New Hampshire, which is or shall be occupied in whole or in part as a primary domicile or place of residence by the mortgagor and which consists of not more than 4 living units. Persons registered under this chapter shall be responsible for the supervision of their employees, agents, and branch offices.

II. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

III. Persons subject to or registered under this chapter that service first mortgage home loans on real property located in the state of New Hampshire shall, within 5 days of receipt of a written request, provide a net payoff amount as of a specific date with a daily interest rate charge. Persons who fail to provide a net payoff amount within 5 days of receipt of a written request shall be assessed a fine of \$100 per day up to a maximum penalty of \$2500 per violation.

IV. Any registration fee required by this chapter must be paid before a registration may become effective.

21 Administration by Commissioner; Rulemaking; Licensee Changed to Registrant. Amend RSA 397-B:3, IV to read as follows:

IV. The commissioner may require such regular or special reports as the commissioner deems necessary to the proper supervision of [licensees] **registrants** under this chapter.

22 Administration by Commissioner; Rulemaking; Licensee Changed to Registrant. Amend RSA 397-B:3, VIII to read as follows:

VIII. The commissioner may issue an order requiring the person to whom any registration has been granted to show cause why the registration should not be revoked. The registration may be revoked for violations of this chapter or any rule or order thereunder. The commissioner may issue a cease and desist order against any registrant or person whom he or she has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter. Delivery of such orders shall be by hand or registered mail at the principal office of the [licensee] **registrant** or other person. The orders shall be calculated to give reasonable notice of the right of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall issue a further order vacating the revocation or cease and desist order or making it permanent as the facts require. All hearings shall comply with 541-A. If the person to whom a revocation or cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the revocation or cease and desist order, the allegations of which may be deemed to be true. If the person to whom a revocation or cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

23 New Section; Record Keeping. Amend RSA 397-B by inserting after section 4 the following new section:

397-B:4-a Record Keeping. A registrant shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the registrant is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is registered under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any registrant to destroy original records or documents. Each registrant shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

24 Penalties; Licensee Changed to Registrant. Amend RSA 397-B:6, V to read as follows:

V. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every [licensee] **registrant** or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

25 Surrender. Amend RSA 397-B:8 to read as follows:

397-B:8 Surrender.

I.(a) Registrants under this chapter who cease to engage in the business of servicing mortgage loans in this state at any time during a registration year for any cause, including but not limited to bankruptcy, registration revocation, or voluntary dissolution, shall surrender such registration in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the state a notice to such effect. The commissioner shall adopt rules in accordance with RSA 541-A relative to such notice.

*(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Commissioner may nevertheless institute a revocation or suspension proceeding under RSA 397-A:17 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.*

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications *and the imposition of penalties under RSA 397-A:21.*

26 Records and Filings; Licensee Changed to Registrant. Amend the introductory paragraph of RSA 397-B:11, III to read as follows:

III. A ~~[licensee]~~ **registrant** may maintain its records in electronic format if, upon request, the ~~[licensee]~~ **registrant** provides the commissioner with:

27 Definitions; Second Mortgage Banker; Second Mortgage Broker. Amend RSA 398-A:1, VII and VIII to read as follows:

VII. "Second mortgage banker" means a person not exempt under RSA 398-A:10 who ~~[for compensation or gain, or in the expectation of compensation or gain,]~~ either directly or indirectly:

(a) Makes or originates second mortgage loans as payee on the note evidencing the loan; or

(b) Advances, or offers to advance, or makes a commitment to advance the banker's own funds for second mortgage loans, or closes second mortgage loans with the banker's own funds; or

(c) Otherwise engages in the business of funding second mortgage loans.

VIII. "Second mortgage broker" means a person not exempt under RSA 398-A:10 who ~~[for compensation or gain, or in the expectation of compensation or gain,]~~ either directly or indirectly:

(a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring second mortgage loans, or commitments for second mortgage loans; or

(b) Offers to serve as agent for any person in an attempt to obtain a second mortgage loan; or

(c) Offers to serve as agent for any person who has money to lend for a second mortgage loan.

28 License Required. RSA 398-A:1-a, I is repealed and reenacted to read as follows:

I. No person shall engage in the business of making or brokering second mortgage loans secured by real property located in the state of New Hampshire, which is or shall be occupied in whole or in part as a primary domicile or place of residence by the borrower and which consist of not more than 4 living units, unless the person first obtains a license as provided herein, except when the person lending money is the seller of the real estate upon which the second mortgage is to be taken as security. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, loan originators and branch offices. A person who is licensed under RSA 397-A to broker first mortgage loans may obtain a license under this chapter to broker second mortgage loans by filing a notice and paying the fee required by RSA 398-A:1-a, III. A person who is licensed under RSA 397-A as a first mortgage banker or as a first mortgage banker/broker may obtain a second mortgage home loan license under this chapter to make second mortgage loans by filing a notice and paying the fee required by RSA 398-A:1-a, III. A person who is licensed under 397-A may apply for a second mortgage home loan lender license to make and broker second mortgage loans.

29 License Required. RSA 398-A:1-a, IV(b) is repealed and reenacted to read as follows:

(b) The applicant for a second mortgage home loan lender license, who is not also licensed as a first mortgage banker, has available for use in such business at each location specified in the application at least \$25,000, or has such amount available, or actually invested in loans made under this chapter, or has posted a continuous surety bond in the amount of \$25,000 in the form and under the terms determined by the commissioner; and

30 New Paragraphs; License Required; No Implied Approval by the Commissioner. Amend RSA 398-A:1-a by inserting after paragraph VIII the following new paragraphs:

IX. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

X. Any license or notice filing fee required by this chapter shall be paid before a license may become effective.

31 Revocation; Procedure. RSA 398-A:1-b, II is repealed and reenacted to read as follows:

II. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be revoked. The order shall be calculated to give reasonable notice of the opportunity for hearing, and shall state the reasons for the issuance of the order. A license may be suspended or revoked by the commissioner for violation of this chapter or any rule or order thereunder, for violation of applicable federal laws, or for other good cause shown. The commissioner may by order postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, the person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.

32 Revocation; Licensee no Longer in Business. RSA 398-A:1-b, V is repealed and reenacted to read as follows:

V. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a second mortgage banker or broker or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application. The commissioner may deem abandoned and withdraw any application for a license made under this chapter, if any applicant fails to respond in writing within 180 days to a written request from the commissioner requesting a response. The commissioner shall send such request via certified mail to the last known address of the applicant that is on file with the commissioner.

33 Report. RSA 398-A:1-e is repealed and reenacted to read as follows:

398-A:1-e Report.

I. Each licensee shall file with the commissioner on or before February 1 of each year a report under oath concerning the business and operations for the preceding calendar year ending December 31 in the form prescribed by the commissioner. The annual report shall include a list of all individuals, and the address of the work location of each such individual, who act as originators for the licensee. The commissioner shall publish an analysis of the information required under this section as a part of his or her annual report. Any second mortgage broker or second mortgage home loan lender failing to file the report required by this section within the time prescribed shall pay to the commissioner the sum of \$25 for each calendar day the report is overdue to a maximum penalty of \$2,500 per report and shall be subject to suspension or revocation of its license.

II. A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in paragraph I, notwithstanding the fact that they are not licensed on the date that the report is due.

III. Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the second mortgage home loan lender. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge. Any licensee failing to file the financial statement required by this section within the time prescribed shall pay to the commissioner the sum of \$25 for each calendar day the statement is overdue to a maximum penalty of \$2,500 per statement.

34 License Surrender. Amend RSA 398-A:1-f to read as follows:

1.(a) A licensee who ceases to engage in the business of making second mortgage home loans at any time during a license year for any cause, including but not limited to bankruptcy, license revocation or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

*(b) Withdrawal of the surrendered license becomes effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 398-A:1-b within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.*

II. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications *and the imposition of penalties under RSA 398-A:11.*

35 New Sections; Applicability; Record Keeping. Amend RSA 398-A by inserting after section 1-f the following new sections:

398-A:1-g Applicability. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

398-A:1-h Record Keeping. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is complying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

36 Definitions; Branch Office Added. Amend RSA 399-A:1, I to read as follows:

I. *"Branch office" means a business location within this state of a person required to be licensed under this chapter. Branch office does not include a person's principal office location.*

*I-a. "Check" means a draft drawn on the account of an individual or individuals at a depository institution.*

37 New Paragraph; Definitions; Principal Office Added. Amend RSA 399-A:1 by inserting after paragraph XIII the following new paragraph:

XIII-a. "Principal office" means the main office location of a person required to be licensed under this chapter.

38 Application and Fees. Amend RSA 399-A:3, I and II to read as follows:

I. Every applicant for licensing under this chapter shall file with the commissioner a written application, under oath and penalty of perjury, and in the form prescribed by the commissioner.



The application shall contain the name of the applicant; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees, and principal officers; names of any branch managers; the trade name, if any, under which the applicant proposes to conduct such business; the articles of incorporation or organization or partnership agreement; the name and address of the New Hampshire resident agent if the applicant is a foreign entity; and such other pertinent information as the commissioner may require. ***Each applicant and licensee who conducts payday or title loan lending shall maintain an office in this state that is accessible to consumers. Persons subject to this chapter shall be responsible for the supervision of their employees, agents and branch offices.*** Each initial and renewal license application shall be accompanied by a nonrefundable application fee of \$450 for the principal place of business of the licensee [~~within this state~~] and the sum of \$450 for each branch of such licensee maintained in this state.

II. Every applicant for licensing shall be required to submit to the banking department detailed financial information sufficient for the commissioner to determine the applicant's ability to conduct the business of a small loan lender, payday lender, or title loan lender with financial integrity. The application shall include a balance sheet or a statement of net worth prepared in accordance with generally accepted accounting principles. Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under this chapter. Each applicant shall demonstrate that it has available for use in such business at each location specified in the application, at least \$25,000, or in the case of a licensee, has such amount available or actually invested in loans made under this chapter at each location ***or has posted a continuous surety bond in the amount of \$25,000 in the form and under the terms determined by the commissioner.***

39 Investigation of Application; License Requirements; Small Loan Lender License. Amend RSA 399-A:4, I to read as follows:

I. Upon the filing of the complete application for a small loan lender license[~~-a~~] ***for lending activities including payday [loan] loans [lender license;] or [a] title [loan lender license] loans*** and payment of the required application fee, if the commissioner determines that the applicant's financial resources and responsibility, experience, character and general fitness, personnel, and record of past or proposed conduct warrant the public's confidence and that the business will be operated lawfully, honestly, and fairly within the purposes of this chapter, the commissioner shall enter an order approving such application and shall issue a license to the applicant and shall issue licenses to the applicant's branches to engage in the business of a small loan lender[~~;~~] ***including*** payday loan lender[~~;~~] or title loan lender under and in accordance with the provisions of this chapter.

40 Investigation of Application; License Requirements; Surrendered License. RSA 399-A:4, VIII is repealed and reenacted to read as follows:

VIII.(a) A licensee who ceases to engage in the business of a small loan lender, payday loan lender, or title loan lender at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation.

(b) Withdrawal of the surrendered license becomes effective 30 days after receipt of the license by the commissioner or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke, suspend, or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 399-A:7 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

(c) Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications and the imposition of penalties under RSA 399-A:18.

41 New Paragraphs; Investigation of Application; License Requirements; No Implied Approval by the Commissioner. Amend RSA 399-A:4 by inserting after paragraph IX the following new paragraphs:

X. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

XI. Any license fee required by this chapter shall be paid before a license may become effective.

42 Reporting and Record Keeping Requirements. RSA 399-A:6, I is repealed and reenacted to read as follows:

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before February 1st each year concerning its business and operations for the preceding calendar year or license period ending December 31st in the form prescribed by the commissioner.

(b) A person who surrenders, withdraws or does not renew a license shall file the annual report as required in paragraph I(a), notwithstanding the fact that they are not licensed on the date that the report is due.

(c) Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

43 Reporting and Record Keeping Requirements. Amend RSA 399-A:6, III to read as follows:

III. Any licensee *or person* failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue *to a maximum penalty of \$2,500 per report or statement and shall be subject to suspension or revocation of its license.*

44 Denial, Suspension, or Revocation of Licenses; Procedure. RSA 399-A:7, II and III are repealed and reenacted to read as follows:

II. The commissioner may issue an order requiring the person to whom any license has been granted to show cause why the license should not be suspended or revoked. The order shall be calculated to give reasonable notice of the opportunity for hearing, and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that the order has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner or legal representative of the licensee shall be deemed a valid delivery of the order. If the person to whom an order to show cause is issued fails to request a hearing within 30 days of receipt of the order or within 10 days of valid delivery of the order, and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner after which and within 20 days of the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the person to whom the license was granted fails to request a hearing within 30 calendar days of receipt of such order or fails to appear at a hearing after being duly notified, that person shall be deemed in default and the proceeding may be decided against him or her upon consideration of the order to show cause, the allegations of which may be deemed to be true.

III. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act on behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for supervision of its branch offices

and for the acts of any or all of its employees while acting as its agent if such licensee, after actual knowledge of such acts, retained the benefits, proceeds, profits or advantages accruing from such acts or otherwise ratified such acts.

45 Books and Records. RSA 399-A:21, I is repealed and reenacted to read as follows:

I. Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practice and enable the commissioner to determine whether the licensee is complying with this chapter and any rule adopted under it. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

46 Effective Date. This act shall take effect 60 days after its passage.

**HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: Current federal law sets standards to the retention of both positive and adverse credit information. Seven years is the current standard. The Fair Credit Reporting Act does address all that is contained in HB 1329 with one exception, bankruptcy. New Hampshire bankruptcy records retention law is currently 14 years. The federal law is now ten years. The bill has been amended to reduce the term to ten years. Vote 12-0.

#### **Amendment (0409h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Consumer Credit Reporting; Obsolete Information. Amend RSA 359-B:5, I(a) to read as follows:

(a) Bankruptcies which, from date of adjudication of the most recent bankruptcy, antedate the report by more than ~~[14]~~ **10** years.

2 Effective Date. This act shall take effect January 1, 2005.

#### **AMENDED ANALYSIS**

This bill limits the length of time consumer credit reporting agencies retain bankruptcy information.

**HB 1330**, relative to the investigation of disputed credit reporting items by consumer credit reporting agencies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill would require a consumer reporting agency to request from a creditor written documentation verifying information contained in a disputed credit item on a consumer report. The federal Fair and Accurate Credit Transactions Act, effective December 4, 2003, implemented new rules to provide notice to a consumer on whom the Credit Reporting Agency has reported or plans to report negative information. Notice to the consumer must be sent within 30 days. Disputes must be resolved within 30 days under our current New Hampshire law. The federal law says not more than 30 days. With information technology, investigations are generally completed within 5 days. The Federal Trade Commission has been directed to study the accuracy of consumer reports and report its initial finding by December 4, 2004 with a final report by December 4, 2005. Based on the foregoing, this legislation is not necessary. Vote 12-0.

**HB 1374**, relative to lightning protection systems. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald H. Flanders for Commerce: Although this bill appears to amend RSA 323:2 entirely, the only actual change to the law is to delete the reference to "underwriter laboratories" being required for approval of the installation of lightning protection equipment prior to the work being done. It allows any licensed installer to provide the service subject to the provisions of this chapter with equipment approved by the state which is not limited to only "underwriter laboratories" approved equipment but is approved by the state. Vote 12-0.

#### **Amendment (0260h)**

Amend the bill by replacing section 1 with the following:

1 Lightning Protection Dealers; Prerequisites. RSA 323:2 is repealed and reenacted to read as follows:

## 323:2 Prerequisites.

I. No such license shall be issued until the commissioner of safety has approved of the material used or offered for sale by said dealer for the purpose of protecting from lightning, and the manner and system of installing such material. Such approval shall not be given until all of the following have occurred:

(a) The dealer has filed a bond with the commissioner of safety in the sum of \$5,000 to guarantee that all materials so used have the approval of a testing laboratory recognized by the state of New Hampshire;

(b) The commissioner of safety is satisfied that the dealer has complied with the bonding and approval requirements and is responsible and reliable as to assets, business standing and practices and is entitled to confidence; and

(c) The dealer has filed a written stipulation that legal process affecting such dealer or his or her agent served upon the commissioner of safety for the time being shall have the same effect as if personally served upon such applicant or his or her agent within this state.

II. Installation shall be in accordance with the state fire code. In the event that the installation does not meet the standards established in the state fire code, within 90 days from the completion of the installation, then the dealer shall reimburse the owner for the cost of the installation, including labor and materials.

**HB 1396**, relative to implementing a bottle deposit program. **INEXPEDIENT TO LEGISLATE**  
Rep. Stephen B. Stepanek for Commerce: Between January 1967 and January 2000 33 different bottle bills were filed. Since 1967, our legislature has decided that New Hampshire did not need a bottle law. The sponsors of this bill were the only people speaking in favor of the bill, while a host of people spoke against it. The committee felt that the most compelling arguments against this bill were the fact that by putting a return deposit on bottles and cans we would be increasing the cost to the consumers while reducing the two most profitable waste streams of cities and towns (aluminum cans and P.E.T. plastic). Since these cans and bottles make up only a small percentage of the overall roadside waste, and since a majority of this small percentage are alcohol can and bottles (which would be discarded regardless of a deposit due to our very successful open container law) the committee voted for the 34th time to recommend ITL. Vote 12-0.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Paul D. Spiess for Commerce: At the present time, nonprofit organizations in New Hampshire must register with Charitable Trust Division of the Attorney General's Office and must file either an annual report or the IRS Form 990. This bill would have required nonprofits with revenues in excess of \$100,000 to also provide audited financial statements. The committee felt that this placed an unreasonable financial burden on small nonprofits and amended the bill to raise the threshold for requiring audited financial statements to nonprofits with annual revenues in excess of \$500,000. The bill also changes the three-year requirement of hospitals to report their community benefits to every five years. Vote 12-0.

### Amendment (0535h)

Amend the bill by replacing section 1 with the following:

1 New Paragraphs; Director of Charitable Trusts; Reports by Trustees of Charitable Trusts; Reporting Requirements Added. Amend RSA 7:28 by inserting after paragraph III the following new paragraphs:

III-a. Any charitable organization with a total revenue of \$500,000 or more that is required to file an Internal Revenue Service Form 990 with the attorney general shall also submit the organization's latest, audited financial report as a report required pursuant to this section.

III-b. Charitable organizations for which compliance with paragraph III-a would constitute a financial burden may request an exemption according to criteria established and administered by the director of charitable trusts. An exemption, if granted, shall be valid for 3 years from the date of issuance unless it is revoked by the director of charitable trusts and written notice of such revocation is provided to the charitable organization.

**HCR 24**, urging the state to include individual development accounts in the Temporary Aid to Needy Families (TANF) program. **INEXPEDIENT TO LEGISLATE**

Rep. Matthew J. Quandt for Commerce: The resolution would urge the state to include individual development accounts in the Temporary Aid to Needy Families (TANF) program. The sponsor withdrew the bill to work on a more substantial piece of legislation for next session. Vote 12-0.

**HB 1371-FN**, prohibiting the sale or possession of pocket knives in safe school zones. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The prime sponsor notified the committee that he was unable to attend the hearing and wanted to withdraw the bill. In addition all persons who signed the sign-up sheet were in opposition to this bill. Vote 12-0.

**HR 21**, reaffirming the death penalty. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill would urge the governor and attorney general to reaffirm the purpose and use of the death penalty in New Hampshire. No one appeared to speak in support. Regardless of anyone's individual beliefs concerning the death penalty, New Hampshire currently has a capital punishment statute and the committee unanimously felt it unnecessary to say that the law exists. Vote 14-0.

**HB 1262**, establishing a committee to study ways to encourage municipal recycling efforts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Emma L. Rous for Environment and Agriculture: This bill would establish a study committee to encourage municipal recycling efforts. The legislature has named recycling as its top priority for solid waste reduction, but the state's goal of a 40% recycling rate has stalled at 24%. Therefore, the committee seeks to study alternative and innovative means to raise recycling efforts in New Hampshire. Vote 12-0.

**Amendment (0425h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study ways to encourage municipal recycling efforts.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study ways to encourage municipal recycling efforts.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Four members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) The commissioner of the department of environmental services, or designee.
- (d) A member appointed by New Hampshire the Beautiful, Inc.
- (e) A member appointed by the Northeast Resource Recovery Association.
- (f) Two public members, appointed by the speaker of the house of representatives.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

- I. Ways to enhance municipal recycling efforts.
- II. Other systems for recycling currently used in the United States and Canada.
- III. An environmental fee on recyclable household waste.
- IV. The creation of a grant program and a fund to be used to help towns implement and expand recycling programs.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Three members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill establishes a commission to study ways to encourage municipal recycling efforts.

**HB 1296**, establishing a committee to study the transfer of authority for dairy product inspection to the department of agriculture, markets, and food and to study revising and updating RSA 184.  
**OUGHT TO PASS WITH AMENDMENT**

Rep. Derek Owen for Environment and Agriculture: This bill was amended, basically, to remove a few words – “Transfer” and “updating RSA 184.” In order to make a more inclusive study the committee felt HB 1296, as amended, was still needed, even though dairy product inspection is working well. The study will help to clarify the process. Vote 12-0.

**Amendment (0254h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

Amend the bill by replacing section 1 with the following:

1 Committee Established. There is established a committee to the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

**AMENDED ANALYSIS**

This bill establishes a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board.  
**OUGHT TO PASS WITH AMENDMENT**

Rep. Peter H. Allen for Environment and Agriculture: This bill is a housekeeping bill clarifying provisions in RSA 430 by minor technical changes. Vote 12-0.

**Amendment (0445h)**

Amend the bill by replacing section I with the following:

1 Pesticide Registration. Amend RSA 430:33, I and II to read as follows:

I. No person shall engage in the commercial application of pesticides or in the private application of restricted pesticides within this state without possessing a valid certificate of registration issued by the division. An annual *application for a certificate of registration with a fee* of \$20 shall be collected by the division for each commercial or private applicator registration, except that no fee shall be collected from any nonprofit entity or from any governmental entity. The board shall by rule establish the criteria for eligibility for, and the limits on the use of, certificates of registration for commercial applicator, private applicator, and commercial applicator for hire. Each application for registration shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as the division may require. Every person applying for a registration certificate shall be required to demonstrate by examination, or by such other means as the board by rule may establish, his competency and ability to use pesticides in accordance with standards of the board. The division shall require from each applicant proof of financial responsibility in amounts to be determined under rules adopted by the board. Registered applicators shall maintain routine operational records pursuant to the rules of the board, which records shall be open to inspection at reasonable times by the division or its agents. Operational records for the preceding calendar year shall be submitted by an applicant for renewal of a certificate of registration. Upon submission of such records and satisfaction of such other conditions as the board may by rule impose, the division shall renew a certificate of registration.

II. No person, other than a commercial applicator, shall apply pesticides in this state without first obtaining a written permit from the division except as provided in RSA 430:46. An annual *application for a permit with a fee* of \$20 shall be collected by the division for each permit, except that no fee shall be collected from any nonprofit entity or from any governmental entity. The division shall require each applicant for a permit to demonstrate, by examination or other procedure prescribed by the board in rules, the applicant's competence and ability to use pesticides in accordance with standards of the board. Permit holders shall maintain routine operational records pursuant to rules of the board, which records shall be open to inspection at reasonable times by

the division or its agents. Operational records for the preceding calendar year shall be submitted to the division by an applicant for renewal of a permit. Upon submission of such records and satisfaction of such other conditions as the board may by rule impose, the division shall renew a permit.

**SB 519**, establishing a committee to study the establishment of a farm viability program. **OUGHT TO PASS**

Rep. Omer C. Ahern, Jr. for Environment and Agriculture: Agriculture in New Hampshire is at a critical crossroads. Development pressure and a rapidly changing farm economy are putting New Hampshire out of business, farm land at risk of being lost forever, and the loss of safe local food supplies. This bi-partisan legislation establishes a committee to study ways to build upon the New Hampshire tradition of land protection and pro-business policies to assist New Hampshire farmers, today and tomorrow, to study ways to maintain the viability of New Hampshire farm business. Vote 12-0.

**HB 1306**, relative to collective bargaining by state employees. **INEXPEDIENT TO LEGISLATE**

Rep. Joan H. Schulze for Executive Departments and Administration: The committee heard testimony that currently there are two groups that participate in state employees' collective bargaining. These are, state employees (SEA) and state troopers association. This bill, as presented, could lead to negotiating a contract with up to 33 different groups. Under current statute, a group can petition to negotiate separately. Furthermore, non-union workers would now be faced with having to organize in order to be represented at the negotiating table. The consensus of the committee was that the current system is working well. Vote 13-1.

**HB 1418-FN**, establishing a procedure for state employees to report suspected improper governmental activity. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: The intent of this bill is certainly noble to protect state employees who bring improper governmental action and to prevent the "gross waste of funds". However, the definitions of these items are vague at best. In addition, there were questions as to whether or not the attorney general's office would have the ability to fulfill the obligations under this bill. Vote 15-0.

**HB 1422**, relative to qualifications for persons who negotiate on behalf of the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill, as amended, adds language to RSA 273 dictating that an individual negotiating on behalf of the state will not obtain anything of value for the private benefit of the negotiator or the negotiator's family. The amendment strikes language that would dictate that a negotiator be an attorney or state employee. By making this restriction, the committee felt that many good, qualified people could not negotiate for the state. Vote 15-0.

**Amendment (0530h)**

Amend the bill by replacing all after the enacting clause with the following:

I New Paragraph; Public Employee Labor Relations; Bargaining by State Employees; Conflict of Interest. Amend RSA 273-A:9 by inserting after paragraph III the following new paragraph:

III-a. No person who is appointed to serve as a state negotiator or as a member of the state negotiating team shall use his or her position to obtain anything of value for the private benefit of the negotiator or the negotiator's immediate family. No such person shall participate in a negotiation in which he or she has a direct personal and pecuniary interest.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill prohibits the official state negotiator and members of the state negotiating committee from having a direct personal and pecuniary interest in the negotiation.

**HB 369**, relative to the Henniker and Hillsborough district courts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill as amended allows the Towns of Henniker and Hillsborough to negotiate with the State of New Hampshire through June 30, 2006 regarding the towns' level of participation in maintaining separate community courts. If the level of local par-

ticipation rises to the point of reducing the state's expense to a level acceptable to the Department of Administrative Services, then individual courts will be allowed. If not, then court consolidation will take place. Vote 18-0.

#### **Amendment (0368h)**

Amend the bill by replacing section 3 with the following:

3 Henniker-Hillsborough District Court. RSA 502-A:1, XV is repealed and reenacted to read as follows:

**XV. HENNIKER-HILLSBOROUGH DISTRICT.** The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Eenington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall hold sessions regularly at the principal court location and elsewhere in the district as justice may require. Special sessions of said court for cases arising from the town of Henniker shall be held at the principal court location as the caseload and justice requires. The court shall bear the name of the city or town in which it is located.

4 Henniker-Hillsborough District Court RSA 502-A:1, XXIII is repealed and reenacted to read as follows:

**XXIII. HENNIKER-HILLSBOROUGH DISTRICT.** The Henniker-Hillsborough district shall consist of the towns of Henniker, Warner, and Bradford in Merrimack county and the towns of Hillsborough, Deering, Windsor, Antrim and Bennington in Hillsborough county. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Contingency. If the department of administrative services and the towns in the Henniker and Hillsborough districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall take effect July 1, 2006. If the department of administrative services and the towns in the Henniker and Hillsborough districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 3 and 4 of this act shall not take effect.

6 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect July 1, 2004.

#### **AMENDED ANALYSIS**

This bill prevents the consolidation of the Henniker district court and Hillsborough district court, if certain conditions are met regarding court facilities.

**HB 511**, transferring authority over the New Hampshire hospital security force to the department of safety. **INEXPEDIENT TO LEGISLATE**

Rep. Robert L. Wheeler for Finance: The Commissioner of Health and Human Services has informed the committee that they are not ready to detail a budgetary transfer. He indicated that there was a reorganization bill in the Senate, so that ITL was appropriate for this bill, and the issue will be dealt with at a later time. Vote 20-0.

**HB 651-FN**, relative to the purchase of prior service credit by certain political subdivision employee members, and repealing certain provisions permitting additional contributions. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill deals with a problem that is created by the existence of voluntary contributions to a fund that is required to guarantee a return (currently 9%) in an economically depressed time. It is inappropriate for our retirement system to pay 9% on funds on deposit when it is not earning 9%. A solution is to eliminate voluntary contributions. However, we



heard from people who are using voluntary contributions to make up for years of past service which they were ineligible to buy back. To resolve these issues the committee elected to 1) suspend voluntary contributions (but grandfather those currently held by the New Hampshire Retirement System) and 2) remove the 5-year time barrier to purchase past service. This seems to solve the problems and was unanimously favored by the committee. There is no fiscal impact to the general fund or the retirement system. Vote 20-0.

#### Amendment (0401h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 6:

3 Retirement System; Group I; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-b, I(a) and (b) to read as follows:

(a) The member has terminated employment and active membership in the out-of-state system and~~[-within 18 months thereafter,]~~ has become a group I member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[-within 5 years after becoming a member of the New Hampshire retirement system or before July 1, 1995, whichever is later];~~ and

4 Retirement System; Group II; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-c, I(a) and (b) to read as follows:

(a) The member has terminated regular full-time employment and active membership in the out-of-state system and~~[-within 18 months thereafter,]~~ has become a member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[-within 5 years after becoming a member of the New Hampshire retirement system, or before July 1, 1995, whichever is later];~~ and

5 Political Subdivision Membership; Modifications; Petition for Credit. Amend RSA 100-A:22 to read as follows:

100-A:22 Modifications. Membership in the retirement system shall be optional for officers and employees of the employer who are in the service of the employer on the date when participation becomes effective, and any such officer or employee who elects to join the retirement system within one year thereafter shall be credited with prior service covering such periods of prior service rendered to such employer for which the employer is willing to make accrued liability contributions. If the employer is unable or unwilling to make such contributions, a member in service may petition the board of trustees ~~[within 5 years from the date when the employer's participation becomes effective]~~ for periods of prior service rendered to such employer. Upon payment by the member of the amount determined in accordance with RSA 100-A:3, VI(b) and with the approval of the board, the member shall receive credit for such prior service. Thereafter, service for such employer on account of which contributions are made by the employer and member shall also be considered as creditable service. Membership shall be compulsory for all employees entering the service of such employer after the date participation becomes effective. Municipalities may, by action of their city council or board of selectmen, exempt their chief administrative officer, as an unclassified employee, from compulsory membership provided herein. The chief fiscal officer of the employer, and the heads of its departments, shall submit to the board of trustees such information and shall cause to be performed with respect to the employees of such employer, who are members of the retirement system, such duties as shall be prescribed by the trustees in order to carry out the provisions of this chapter.

#### AMENDED ANALYSIS

This bill:

I. Allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan.

II. Repeals the provisions for making additional contributions for the benefit of a member's retirement allowance.

III. Removes time frames for applications to purchase service credit.

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program and making an appropriation to the barn preservation fund. **OUGHT TO PASS WITH AMENDMENT**

Rep. Joseph E. Stone for Finance: HB 1225 makes administrative changes to the historic agriculture matching grants program. The appropriation to the barn preservation fund is removed. Vote 20-0.

**Amendment (0184h)**

Amend the title of the bill by replacing it with the following:

AN ACT making administrative changes to the historic agricultural structure matching grants program.

Amend the bill by deleting section 6 and renumbering the original section 7 to read as 6.

**AMENDED ANALYSIS**

This bill makes certain administrative changes to the historic agricultural structure matching grants program.

**HB 1266**, relative to the long-term care ombudsman. **OUGHT TO PASS**

Rep. Fran Wendelboe for Finance: HB 1266 simply renames the Office of the Ombudsman to the Office of the Long Term Care Ombudsman. This name change was requested by the Department of Health and Human Services to raise awareness that the Ombudsman deals with long-term care, transfers language so the state law complies with the federal government and eliminates a requirement for two separate annual reports. There is no fiscal impact. Vote 19-0.

**HB 1426-FN**, relative to testing for the human immunodeficiency virus. **OUGHT TO PASS WITH AMENDMENT**

Rep. Janeen Dalrymple for Health, Human Services and Elderly Affairs: This bill will allow for HIV testing in a physicians office or other authorized testing, treatment and or diagnostic centers who are in accordance with all federal regulations; including those of confidentiality. The committee was very concerned about the rapid spread of HIV in this state and nation and the committee felt that a faster testing and results were very important and that is achieved with this bill. Test results under this bill are immediate whereas prior to this bill it could delay the test results by days. The committee felt that their concerns about confidentiality and testing process are covered by federal regulations. This bill also was entered because of a breakthrough of faster testing results now available. A secondary concern of the committee is a requirement in current administrative rules that prohibits the release of the results of a first HIV test until confirmatory test results become available. While this made sense in the past, the accuracy of the newer tests and the positive benefits of counseling presumptive HIV positive individuals as soon as possible makes this rule unnecessary and thus it should be repealed. As a committee and subcommittee we could find no reason for a cost to the state, as a matter of fact we see this as a long-term savings. Vote 15-0.

**Amendment (0627h)**

Amend the bill by replacing all after the enacting clause with the following:

I Testing; Human Immunodeficiency Virus. Amend RSA 141-F:6 to read as follows:

141-F:6 Testing[; Certification].

I. The department, *or agencies operated by or under contract with the department*, shall offer laboratory testing, in accordance with RSA 131, for the presence or absence of antibodies or antigens of the human immunodeficiency virus. Each sample for testing shall be submitted with a statement signed by a physician, or by a person authorized by a physician to sign, attesting that the ~~[person]~~ *patient* has consented to the test in accordance with RSA 141-F:5.

II. All other laboratories, public or private, which test human blood, tissue, or other samples as part of its operations may offer to test samples for the presence or absence of antibodies or antigens of the human immunodeficiency virus ~~[if such laboratories are annually certified by the department. The commissioner shall adopt rules under RSA 141-F:4 relative to the certification process]~~. Such laboratories *or other such businesses or organizations* shall require that any sample for testing be submitted with a written statement signed by a physician, or a person authorized by a physician to sign, attesting that ~~[such person]~~ *the patient* has given informed consent as required under RSA 141-F:5. ~~[Certification under this paragraph shall be in addition to any other certification, registration, or licensure required for such laboratories under state law.]~~

2 Repeal. The following are repealed:

I. RSA 141-F:3, X, relative to certifying laboratories.

II. RSA 141-F:4, V, relative to rulemaking for certification of laboratories.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill allows testing for the presence or absence of antibodies or antigens of the human immunodeficiency virus in a physician's office in accordance with federal law. This bill also repeals certain rulemaking relative to certification of laboratories because such certification is preempted by federal law.

### **HB 1228**, requiring legislative approval of changes in the uniform fine schedule. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gregory M. Sorg for Judiciary: This bill would transfer authority to establish and amend a uniform schedule of court fines and administrative fees from the judicial to the legislative branch. The judicial branch favors this transfer because it no longer has the incentive to keep this schedule up to date that it had when a portion of the judicial branch was self-funded. Now that the judicial branch is funded solely by the legislature out of general state revenues, it makes sense that the legislature also have the authority to regulate the system of fines and administrative fees. The amendment clarifies that the existing fine schedule shall remain in force until such time as changed by the legislature. Vote 12-1.

#### **Amendment (0605h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to changes to the uniform fine schedule.

Amend the bill by replacing section 1 with the following:

1 Legislative Approval Required; Changes to Uniform Fine Schedule. Amend RSA 502-A:19-b, V to read as follows:

V. The uniform fine schedule and administrative processing fee referred to in paragraphs I and II ~~(shall be)~~, developed and promulgated by the New Hampshire supreme court after approval by the legislative fiscal committee, *shall, on and after January 1, 2005, be changed only by statute.*

### AMENDED ANALYSIS

This bill requires that any changes to the uniform fine schedule be made by statute.

### **HB 1302**, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. **OUGHT TO PASS WITH AMENDMENT**

Rep. Phyllis L. Woods for Judiciary: The committee was unanimous in its support of the concept of this bill which was to avoid any penalty or undue hardship on any servicemen and women who are called to active duty away from home who have a property rental lease. The subcommittee learned that this issue is covered in the federal law entitled the Soldiers' and Sailors' Civil Relief Act and incorporated reference to that law in this bill so we are not in conflict but merely codifying existing federal law. Vote 14-0.

#### **Amendment (0456h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Termination by Members of the Armed Services. Amend RSA 540 by inserting after section 11 the following new section:

540:11-a Termination by Members of the Armed Services.

I. A lessee may terminate his or her lease, or a tenant may terminate a rental agreement when the lessee or tenant is:

(a) A member of the armed services reserve who is called to active duty.

(b) A member of the national guard who is called to active duty.

(c) A member of the armed services on active duty who is reassigned to a location out of the state.

II. The lessee or tenant shall terminate the lease or rental agreement by a written notice in accordance with the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C, section 534.

2 Effective Date. This act shall take effect January 1, 2005.

## AMENDED ANALYSIS

This bill allows a member of the armed services reserve or national guard, who is called to active duty, or a member of the military on active duty who is transferred to another state, to terminate a real estate lease or rental agreement in accordance with the terms of federal law.

**HB 1321-FN**, relative to claims before the state commission on human rights. **INEXPEDIENT TO LEGISLATE**

Rep. Robert H. Rowe for Judiciary: Currently the federal government is processing discrimination cases in housing. This bill would have allowed the State Human Rights Commission to adjudicate housing discrimination. Unfortunately, for our Human Rights Commissioner to be able to take over these claims we must have federal approval. The federal approval has not been received and the sponsor regretted that the bill be voted ITL at this time. Vote 12-0.

**HB 1417**, relative to examination of persons called as jurors in civil cases. **OUGHT TO PASS**  
Rep. John Pratt for Judiciary: This bill is the result of a two year experiment allowing attorneys to examine prospective jurors in civil cases. A joint study committee oversaw the experiment and concluded that the experiment proved the worth of the program and recommended this legislation. Vote 15-0.

**HB 1335-L**, relative to workers' compensation requirements for out-of-state employers doing business in New Hampshire. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Russell Bridle for Labor, Industrial and Rehabilitative Services: The bill as introduced would have required non-resident employers on job sites in New Hampshire to file a notice of compliance with the workers' compensation laws in their resident state with the town clerk where the jobs are located in New Hampshire. The bill was the result of certain problems perceived within the workers' compensation system. The committee amendment establishes a 13-member commission to study and identify any weaknesses in our current workers' compensation system and to consider methods of improving its efficacy and fairness. A report is due in November 2005. Vote 15-2.

**Amendment (0170h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to examine the workers' compensation system in New Hampshire.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study the workers' compensation system in New Hampshire.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Three members of the house, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) The commissioner of labor, or designee.
- (d) The insurance commissioner, or designee.
- (e) A representative of the governor's office, appointed by the governor.
- (f) Four public members, appointed by the governor, including:
  - (1) An attorney admitted to practice in New Hampshire.
  - (2) A licensed physician.
  - (3) A representative of business interests.
  - (4) A representative of the labor field.

II. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall examine worker's compensation laws and procedures in the state of New Hampshire. The commission shall identify any weaknesses in the current system and shall consider means for improving the efficacy and fairness of the workers' compensation system as a whole. The commission shall review information relative to the number and outcome of workers' compensation claims in the state, and may solicit such additional information as may assist the commission in its study.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2005.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a commission to study the workers' compensation system.

#### **HB 1143**, relative to legislators temporarily serving as county commissioners. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: This bill would allow a member of the House of Representatives to temporarily fill a vacancy in the office of county commissioner. A state representative presently acts as a legislative member of the county delegation. In that role, he/she votes on fiscal issues that deal with county government. As an acting temporary county commissioner, a legislator would be wearing two hats, one in a legislative capacity and the other in an executive capacity. The committee felt that an incompatibility of offices existed. To reinforce its position, the committee learned that a past chair of the Municipal and County Government Committee did, in fact, occupy both positions as legislator and acting county commissioner. The former member of the legislature felt that the offices were incompatible and as a result resigned from the legislature. Vote 13-0.

#### **HB 1171**, relative to official ballot voting on issuance of bonds or notes. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: Currently each municipality that adopts a charter determines how that municipality will run its local government. This bill would have required those municipalities to have a separate vote on each capital improvement project whether the charter allows it or not. The problem arose when a governing body aggregated three projects together for the sum of \$11,500,000, instead of listing the three projects separately. Since it is not constitutional to change any form of a charter without a vote of the people, the committee concluded that the matter properly resided in a change to the charter at the local level by specifying how capital improvements projects would be listed on the ballot. Vote 15-0.

#### **HB 1172-L**, relative to compensation of county convention members for county business. **OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: RSA 24:9-e currently allows for members of the county convention to receive not over \$25 per day plus mileage for attending their county convention meetings. This bill expands the circumstances when members may receive compensation by including any "official" county business attended to, discharged by or participated in county matters. The bill allows the county convention chair, as authorized by the county convention, to approve the compensation to county convention members involved in the approved county business. The amendment replaces RSA 24:9-e which was last amended in 1965 and referenced compensation allowed to \$3 per day for attendance and \$.10 a mile for travel. Vote 14-0.

### Amendment (0520h)

Amend the bill by replacing all after the enacting clause with the following:

1 County Conventions; Compensation For County Business. RSA 24:9-e is repealed and reenacted to read as follows:

24:9-e Compensation for County Conventions. Members of each county convention may receive from the county treasury a sum not to exceed \$25 per day for actual attendance at meetings of their respective conventions and an allowance for travel expenses to and from the place of meeting at a rate per mile not in excess of the rate allowed by the United States Internal Revenue Service to be set by a vote of the respective county convention. In addition, the county convention chair may approve compensation for members attending to, discharging, or participating in other offi-

cial county business, as authorized by vote of the county convention. The members are not entitled to receive any compensation or mileage for attending such meetings when county meetings are held at the state house in Concord on a legislative day.

2 Repeal. RSA 24:9-ee, relative to compensation for county conventions, is repealed.

3 Effective Date. This act shall take effect 60 days after its passage.

**HB 1211**, relative to the expenditure of land use change tax revenues. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: This bill would allow towns to adopt a procedure for holding surplus land use change tax revenues in a non-lapsing fund for expenditure at annual meeting. The law now states that when land is taken out of current use, a land use change tax is imposed. This tax money is then placed in a land use change tax fund. Many towns and cities in the state have elected to place all or a part of these monies in a conservation fund to be used by the town's Conservation Commission. Any money not transferred to the conservation fund would then be available for use at the next annual meeting for any purpose not prohibited by the laws or by the constitution of this state. This bill would mandate that these surplus funds be held in a non-lapsing fund in the custody of the treasurer. This non-lapsing fund would not be required to address any particular purpose or method for the administering of these funds. The committee feels that if these surplus funds are not used by the legislative body at their annual meeting, then they should return to the general fund to help offset taxes. The bill also changes the procedure for adoption and rescission of the accounting of these funds. It removes some very necessary language as to how the question is posed to the voters to either adopt or rescind the procedure. Vote 15-0.

**HB 1236-FN-L**, relative to municipal use of impact fees. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas J. Gillick for Municipal and County Government: RSA 674:21 makes clear that "Impact Fees" can be and should be set up for and used for, and accounted for specific purposes, and that such funds should be segregated from general funds. This bill would repeal the restrictions on the use of impact fee money. The committee felt that this bill would so alter such provisions that this would essentially create another form of taxation. Vote 12-0.

**HB 1272**, relative to allowing towns to have an official ballot vote on the issuance of specific bonds or notes. **INEXPEDIENT TO LEGISLATE**

Rep. James E. Twombly for Municipal and County Government: Currently there are established practices to place or not place a bond article on the ballot. This bill would have allowed any town to put a bond question on the official ballot regardless of its form of government. Also the passage of the bond question was an automatic 3/5 votes instead of the current 2/3 vote without a vote of any municipality. The Committee felt that there were already three ways to bring about what the sponsor intended – adopt a charter with the provision, go through a charter change through the established procedure or adopt the SB2 form of government. Even though this bill would have been enabling, the committee concluded that this type of change should involve the decision making of the local community, not an edict from the State. Vote 15-0.

**HB 1291-L**, relative to elderly and handicapped priority low-income housing. **INEXPEDIENT TO LEGISLATE**

Rep. Eric G. Stohl for Municipal and County Government: The intent of this bill is to give priority placement to the elderly and handicapped in low-income housing. The committee agrees with the sponsor that this bill affects federal regulation. There are problems with housing for the elderly and the handicapped, which need to be addressed. The committee supports the sponsor's request to find this bill inexpedient to legislate so that the issue may be addressed by the sponsor in another way. Vote 12-0.

**HB 1301**, relative to extensions to the intent to cut. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert W. Brundige for Municipal and County Government: The procedures and dates regarding the Notice of Intent to Cut Wood or Timber are dealt with in this bill. Currently there is no penalty for not filing Intent to Cut prior to commencing a logging operation. The amendment make it a violation if the owner or logger does not obtain an original intent to cut or an approved supplemental Intent to Cut when the amount of timber that has been cut exceeds the original no-

tice of intent to cut. The current law in RSA 79:11 requires that the social security number of the owner be included in the information of the Report of Wood or Timber Cut. The amendment eliminates this requirement. The report of cut filing dates has been changed from April 15 to May 15 and the date that assessing officials have to report the assessed yield taxes to the Department of Revenue Administration has been changed from May 15 to June 15. These date changes are more reflective of the needs of the logging community. After two subcommittee sessions with the stakeholders all agreed that this amendment was appropriate. Vote 14-0.

#### Amendment (0481h)

Amend the bill by replacing all after the enacting clause with the following:

1 Notice of Intent to Cut. Amend RSA 79:10, I(f) to read as follows:

(f) *Starting an operation before the original notice of intent to cut or supplemental intent to cut has been filed with the city or town and signed by the appropriate municipal officials shall constitute a violation by the owner or any other person doing the cutting, or both.*

(g) A copy of all intents received by the commissioner of revenue administration shall be forwarded to the division of forests and lands of the department of resources and economic development.

2 Report. Amend RSA 79:11 to read as follows:

79:11 Report.

I. Every owner who has filed a notice of intent to cut as provided in RSA 79:10 shall make under the penalties of perjury and file with the assessing officials a report of all wood and timber cut within 60 days after completion of an operation. The report shall be upon a form provided by the commissioner of revenue administration, with 2 copies to be sent to him. The report shall state if no growing wood and timber was cut on an operation for which a notice of intent to cut was filed. The assessing officials may require that a report of cut be filed immediately upon the completion or termination of the cutting referred to in a notice of intent to cut. Reports of cut shall contain the name, residence~~[-, and social security number]~~ of the owner, volume of wood and timber cut by species or species group and primary products, and such other information as may be necessary to enable the assessing officials to locate, identify, verify and determine the full amount and true stumpage value of all wood and timber cut on the operation for which the report is filed. In addition, the person who did the cutting or the person responsible for the cutting must sign and verify the volumes of wood and timber reported to have been cut by the owner. The commissioner of revenue administration shall send one copy of the report of cut to the division of forests and lands of the department of resources and economic development. A report of wood and timber severed covering operations still in progress through March 31 of any year shall be filed not later than ~~[April]~~ **May** 15 of said year for all wood and timber severed during the tax year up to and including March 31.

II. Notwithstanding the provisions of paragraph I, any owner who has commenced cutting operations under a valid notice of intent to cut prior to April 1, which notice has been extended to June 30 under provisions contained in RSA 79:10, II, shall be required to file the report of cut as required in paragraph I of this section within 60 days of the completion of the operation or by ~~[July]~~ **August** 15, whichever occurs first.

3 Doomage. Amend RSA 79:12 to read as follows:

79:12 Doomage. If an owner neglects or fails to file a report of cut pursuant to RSA 79:11, unless the time is extended by the assessing officials because of accident, mistake or misfortune to a date not later than the following ~~[May]~~ **June** 1, or willfully makes any false statement in a notice of intent to cut, or a report of cut, or willfully files a report of cut that does not contain a true and correct statement of the amount of wood or timber cut, or has willfully omitted to give any information required by a report of cut, the assessing officials shall ascertain, in such way as they may be able, and as nearly as practicable, the volume and stumpage value of the wood and timber for which such owner is taxable, and shall assess to such owner, by way of doomage 2 times as much as such wood and timber would have been taxed had such report been seasonably filed and truly reported. Such doomage shall be collected by the tax collector in the usual manner and paid over to the town treasurer for use of the town.

4 Certification of Yield Taxes Assessed. Amend RSA 79:19 to read as follows:

79:19 Certification of Yield Taxes Assessed.

I. The assessing officials of every town and city shall annually on or before [~~May~~] **June 15** certify to the commissioner the normal yield taxes assessed for the tax year ending the preceding March 31. Such certification shall be filed in duplicate upon a form prescribed and provided by the commissioner and shall contain such information as the commissioner shall require. Any assessing official who fails to file the certification as provided herein shall, upon complaint, be guilty of a violation.

II. Notwithstanding the provisions of paragraph I, certification for yield taxes assessed on owners whose notice of intent to cut has been extended to June 30 under provisions contained in RSA 79:10, II, shall be filed on or before [~~August~~] **September 15**.

5 Effective Date. This act shall take effect January 1, 2005.

### AMENDED ANALYSIS

This bill establishes a new violation for beginning a timber cutting operation before the appropriate notices are filed.

This bill also makes various date changes to the timber cutting statutes.

**HB 1317-FN-L**, requiring cities and towns to complete valuations of property and relative to the implementation of property tax hardship relief provisions. **INEXPEDIENT TO LEGISLATE**  
Rep. Eric G. Stohl for Municipal and County Government: This bill first came to the committee with two parts and was lacking reference to a particular statute. The prime sponsor recognized the defects in the bill during testimony and submitted an amendment. The amendment made some changes to the first part of the bill that deals with property assessment and removed the second part of the original bill dealing with the implementation of property tax hardship relief. The committee certainly agrees with the sponsor that some form of penalty needs to be levied on municipalities that will not complete their required property assessment. The original bill proposed to restrict the distribution of the adequate education grant if a municipality failed to follow the requirements. The amendment requires the attorney general to prosecute "a municipal official" for a Class A misdemeanor if he or she fails to comply with the property assessment review. The committee was very involved in the assessment issues last year, during which a 4-year moratorium on assessment was established. Guidelines were set up to assist the municipalities in reaching their goals set out in statute and the New Hampshire Constitution Part II, Article 6. The committee feels that the best method of approach to the issue is to give the municipalities and the Department of Revenue Administration this moratorium period to establish baseline data for each town or city. If after this period a municipality fails to meet the requirements that will be established, that community will be subject to an adopted penalty. Vote 12-0.

**HB 1395**, relative to representation by the county attorney in county matters. **INEXPEDIENT TO LEGISLATE**

Rep. Dudley D. Dumaine for Municipal and County Government: During the course of this hearing there was testimony regarding a change that occurred last session dealing with statutes relating to the duties of the County Attorney (RSA 7:34) and the duties of the County Commissioners (RSA 29-A:2) regarding the use of legal services at the county level. There was a difference of opinion within the Hillsborough County Delegation about the constitutionality of those changes and the manner in which those changes took place – through the trailer bill, HB 4. The committee did not hear any convincing testimony to support the concerns of some of the Hillsborough County Delegation and concluded that this legislation was unnecessary. The testimony showed that the Hillsborough County controversy has been successfully worked out by the majority of the Delegation. Vote 14-0.

**HB 1131**, requiring the department of environmental services to study the cost effectiveness of programs to control exotic aquatic weeds and to examine alternatives. **OUGHT TO PASS WITH AMENDMENT**

Rep. Richard T. Cooney for Resources, Recreation and Development: This bill, as amended, establishes a statutory study committee to study the spread, control, and elimination of exotic aquatic weeds and species. This problem has been growing at any alarming rate despite several initiatives made by this legislature in recent years. The boat registration fee was increased by \$3 to help fund this program and the Department of Environmental Services (DES) has recently been awarded \$1



Million from the Federal Government to help this program. This study committee will serve to oversee the department in the use of these funds. It will also serve as a legislative focal point for constituent concerns in this area. Vote 12-0.

### **Amendment (0458h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study exotic aquatic weeds and species.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Committee to Study Exotic Aquatic Weeds and Species. Amend RSA 487 by inserting after section 29 the following new section:

487:30 Exotic Aquatic Weeds and Species Committee.

I. There is established a committee to study exotic aquatic weeds and species in the state of New Hampshire.

II.(a) The members of the committee shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the committee shall serve terms which are coterminous to their terms on the general court and shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the spread of exotic aquatic weeds and exotic aquatic species in the waters of New Hampshire. The study shall include education, management, and potential means to eliminate the spread of these weeds and species.

IV. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1 of each year.

2 Effective Date. This act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill establishes a statutory committee to study exotic aquatic weeds and species in the state of New Hampshire.

### **HB 1136, relative to homeowner exemptions from certain environmental permitting. OUGHT TO PASS WITH AMENDMENT**

Rep. Ruth Z. Bleyler for Resources, Recreation and Development: This bill as amended allows a property owner to delineate wetlands on their primary residence providing rules adopted by the Department of Environmental Services (DES) are followed. The bill outlines qualifications for wetlands scientists and allows practical field experiences to replace certain education requirements for certification. Vote 14-0.

### **Amendment (0628h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

Amend the bill by replacing all after the enacting clause with the following:

1 Homeowner Exemption. Amend RSA 310-A:77 to read as follows:

310-A:77 Application. Any person, except as specifically exempted in this subdivision, who practices or offers to practice soil science or wetland science ~~for the general public~~ in this state shall be subject to the provisions of this subdivision.

2 New Paragraph; Homeowner Exemption. Amend RSA 310-A:79 by inserting after paragraph IV the following new paragraph:

V. A homeowner from preparing a plan to provide vehicular and utility access to the homeowner's primary residence; provided that he or she complies with rules adopted by the department of environmental services and standards adopted by the board.

3 Soil Scientist; Qualifications. RSA 310-A:84, II-a and II-b is repealed and reenacted to read as follows:

II-a. To be eligible for certification as a wetland scientist, a person shall meet high ethical and professional standards, have successfully passed an examination designed to determine the person's proficiency and qualifications, including references to wetland characteristics in the New England region, be engaged in the practice of wetland science, and shall have one of the following qualifications:

(a) Be a graduate of an accredited college curriculum leading to a baccalaureate or an associate degree, where the applicant has successfully completed a minimum of 24 semester hours in any of the following environmental sciences: botany, soil science, hydrology, wetland science, biology, forestry, wildlife, ecology, water resources, plant science, agronomy, geology, or earth science, and have one or more years experience in the practice of wetland science.

(b) Have a minimum of 12 combined credit or non-credit semester hours in any of the environmental sciences under subparagraph (a), and have 3 or more years experience in the practice of wetland science.

II-b.(a) Experience in the practice of wetland science shall be of a quality and character that indicates to the board that the applicant is competent to practice as a wetland scientist. Experience shall be defined as one or more of the following:

(1) Teaching wetland science courses or performing research in wetland science at an accredited college, university, or institution offering an approved wetland science or wetland ecology curriculum.

(2) Actual field experience gained in an acceptable apprenticeship program.

(3) Actual field mapping experience, defined as the delineation of wetland boundaries and the preparation of wetland maps in accordance with standards for the identification of wetlands adopted by the department of environmental services or the United States Army Corps of Engineers or its successor.

(b) For the purposes of this paragraph, educational training shall not be considered as experience; summer employment shall be considered experience.

(c) For the purposes of this paragraph, each advanced degree in a related field may be counted as one year of experience, however, a minimum of one year of actual field experience shall be required for all candidates.

4 Excavation and Dredging; Permit Exemptions. Amend RSA 482-A:3, V(a) to read as follows:

(a) Persons who have complied with notice of intent to cut wood requirements under RSA 79:10, and who have filed an appropriate notice of intent with the department and the department of resources and economic development, shall have satisfied the permitting requirements of this section for minimum impact activities only as defined by rules adopted by the commissioner. *Minimum impact notifications issued by the department shall be valid for 2-years.*

5 New Paragraph; Rulemaking. Amend RSA 482-A:11 by inserting after paragraph VIII the following new paragraph:

IX. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the circumstances under which the commissioner may grant a waiver of rules adopted pursuant to this chapter. Such rules shall list the specific criteria to be used by the commissioner in determining whether a waiver will be granted.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill exempts homeowners from certain environmental permitting, and establishes detailed qualifications to be certified as soil scientists.

This bill also requires the department of environmental services to recognize an exemption from the dredge and fill permitting requirements for a 2-year period.

**HB 1138**, establishing a Nash Stream forest citizens committee. **OUGHT TO PASS WITH AMENDMENT**

Rep. David M. Lawton for Resources, Recreation and Development: This bill will establish a Nash Stream forest citizens committee which will provide oversight and advisory opinions regarding the 39,601 acre Nash Stream forest conservation easement. The proposed 13-member committee will continue the work of the Nash Stream citizen advisory committee with the majority of the mem-

bers of the new committee being residents of communities in the Great North Woods. The committee amendment resolves an oversight in the Connecticut Lakes Headwaters Tract Natural Areas acquisition of 2003. It authorizes the executive director of the Fish and Game Department to manage the leasing of the three existing seasonal camp lots within the 25,000 acre natural area. Vote 14-0.

#### **Amendment (0345h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

Amend RSA 12-A:9-c, I(j)-(k) as inserted by section 1 of the bill by replacing it with the following:

(j) The commissioner of the department of resources and economic development, or a citizen appointed by the commissioner as designee.

(k) The executive director of the fish and game department, or a citizen appointed by the executive director as designee.

(l) One person who is a member of the Nash Stream Campowners Association, appointed by the commissioner of the department of resources and economic development.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Section; Connecticut Lakes Headwaters Tract Natural Areas Camp Leases. Amend RSA 212 by inserting after section 10 the following new section:

212:10-a Connecticut Lakes Headwaters Tract Natural Areas Camp Leases. The executive director of the fish and game department shall make contracts for the leasing of seasonal camp lots within the Connecticut Lakes headwaters tract natural areas, which were in existence at the time of the state's acquisition of the tract, for periods not exceeding 5 years. All such contracts extending for a period of more than 5 years or for an annual consideration of more than \$5,000 shall be approved by the governor and council prior to being effective. All money collected from the leasing of seasonal camp lots within the Connecticut Lakes headwaters tract natural areas shall be credited to the fish and game fund established under RSA 206:33.

#### **AMENDED ANALYSIS**

This bill establishes a Nash Stream forest citizens committee. This bill also requires Connecticut Lakes headwaters tract natural areas camp leases.

#### **HB 1148, defining a wetland for the purpose of fill and dredge in wetlands. OUGHT TO PASS WITH AMENDMENT**

Rep. Kevin L. Camm for Resources, Recreation and Development: Presently there is not a definition of a wetland in statute. This bill as amended, defines a wetland. The definition will provide uniformity on the issue throughout the state. This definition conforms with the US Army Corps of Engineers 1987 manual and current DES wetland rules. Vote 14-0.

#### **Amendment (0595h)**

Amend the title of the bill by replacing it with the following:

AN ACT defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

Amend the bill by replacing all after section 1 with the following:

2 New Subdivision; Wetlands. Amend RSA 674 by inserting after section 54 the following new subdivision:

#### **Wetlands**

674:55 Wetlands. Regulations and ordinances adopted pursuant to this chapter that are related to wetlands, shall identify the wetlands based upon the definition of wetlands in RSA 482-A:2. X and the technical criteria for delineating wetlands prescribed in rules adopted under RSA 482-A.

3 Effective Date. This act shall take effect June 1, 2005.

#### **AMENDED ANALYSIS**

This bill defines "wetlands" for purposes of RSA 482-A, fill and dredge in wetlands, and for local use planning and zoning.

#### **SB 496, relative to the definition of snow traveling vehicle. OUGHT TO PASS WITH AMENDMENT**

Rep. Harry C. Merrow for Resources, Recreation and Development: This bill as amended, defines snow traveling vehicle and by definition, limits the size of vehicles allowed on public snowmobile trails. Only vehicles that are no more than 54 inches in width and no more than 1200 pounds will be allowed. Vote 14-0.

#### Amendment (0522h)

Amend RSA 215-A:1, XIII as inserted by section 1 of the bill by replacing it with the following:

XIII. "Snow traveling vehicle" means any vehicle propelled by mechanical power that is designed to travel over ice or snow supported in part by skis, belts or cleats. *Only vehicles that are no more than 54 inches in width and no more than 1200 pounds in weight shall be considered snow traveling vehicles under this chapter.* For the purposes of this chapter, all vehicles within this definition shall be classified as off highway recreational vehicles.

**HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. **OUGHT TO PASS WITH AMENDMENT**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill would establish a public interest payphone fund. Money for this fund would come from abandoned telephone deposits returned from telephone companies operating in the state, and deposited in this fund. The Public Utilities Commission (PUC) could then make payment of fair compensation from the fund to providers of payphones that have been designated by the commission as public interest payphones, where such providers are required to maintain the payphones. Vote 9-2.

#### Amendment (0492h)

Amend the bill by replacing sections 1 and 2 with the following:

1 New Subparagraph; General Revenue Exceptions; Public Interest Payphone Fund. Amend RSA 6:12, I(b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the public interest payphone fund established in RSA 374:22-q.

2 New Subdivision; Public Interest Payphones. Amend RSA 374 by inserting after section 22-p the following new subdivision:

#### Public Interest Payphones

##### 374:22-q Public Interest Payphones.

I. There is hereby established a public interest payphone fund into which shall only be deposited monies received pursuant to RSA 471-C:8, IV and this paragraph. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund. Monies in the fund shall be nonlapsing and continually appropriated to the commission to be used only to fund the maintenance of public interest payphones. At the end of each biennium, any monies in excess of \$30,000 shall be transferred to the general fund.

II. "Public interest payphone" means a payphone or payphone site which the commission has determined to be necessary in the interest of public health, safety, or welfare, where there would otherwise not be a payphone, in accordance with 47 U.S.C. section 276(b)(2). The owner or person in control of the payphone site may object in writing to the commission to the designation of the public interest payphone. The commission shall not designate a payphone or payphone site as a public interest payphone if such objection is received by the commission prior to designation; if the objection is received after designation, the commission shall remove the designation immediately upon receipt of the objection. The commission shall make payment of fair compensation from the fund to providers of payphones that have been designated by the commission as public interest payphones, where such providers are required by the commission to maintain the payphones. No other state or state associated funds shall be used to maintain public interest payphones other than those contained in the fund, without further authorization from the legislature.

III. Any public utility or non-utility pay telephone services provider that operates any plant or equipment or any part of same for the conveyance of telephone or telegraph messages that elects to remove the last pay telephone at a site shall provide prior written notice to the commission, to the owner of the property where the payphone is located, and to the public of the intended removal of the payphone. The provider shall notify the commission and the owner at least 60 days prior to removal. Posting notice on the payphone at least 30 days prior to removal shall constitute adequate public notice. The notice shall include notification that any person may file a petition with the commission to designate the payphone as a public interest payphone. Once a payphone or payphone

site has been designated as a public interest payphone, the payphone may not be removed unless the commission removes the public interest payphone designation. The commission shall adopt rules, pursuant to RSA 541-A, to implement this subdivision.

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Repeal. RSA 374:22-p, VI and VII, relative to public interest payphones, is repealed.

**HB 1390**, relative to MTBE. **REFER FOR INTERIM STUDY**

Rep. Robert E. Introne for Science, Technology and Energy: This bill seeks to phase out MtBE as a gasoline additive in New Hampshire. The Environmental Protection Agency (EPA) required New Hampshire to use MtBE as a fuel additive as part of the Clean Air Act in early 1990. The NH Department of Environmental Services (NHDES) currently has a request before the EPA to opt-out of this requirement and a favorable decision is expected by mid-year. The federal government is also considering "New Hampshire specific" opt-out rules. A parallel SB 397 enhances the position of this bill by establishing standards and guidelines for air emissions of certain consumer products. The committee intends to incorporate the eventual banning of MtBE, included in this bill, into SB 397. Vote 13-0.

**HB 1193**, establishing a committee to study the constitutionality of the federal income tax and constitutional abuses in the collection of the income tax and its effects on New Hampshire citizens. **INEXPEDIENT TO LEGISLATE**

Rep. Lawrence J. Guay for State-Federal Relations and Veterans Affairs: The committee felt that a legislative study committee to study the federal income tax and to investigate the Sixteenth Amendment to the U.S. Constitution can not properly obtain an objective that would be in the state of New Hampshire's best interest. Also private records of New Hampshire citizens could be made public in certain situations and the committee felt that a study of these issues is unnecessary. Vote 11-0.

**HB 1245**, nullifying the Sixteenth amendment to the United States Constitution. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Eason for State-Federal Relations and Veterans Affairs: The committee believes that a House Resolution or House Concurrent Resolution would be a more appropriate vehicle for this legislation. Vote 11-0.

**HB 1246**, nullifying the USA Patriot Act. **INEXPEDIENT TO LEGISLATE**

Rep. Timothy E. Eason for State-Federal Relations and Veterans Affairs: This bill calls for the nullification of the "USA Patriot Act". The committee believes the legislature does not have this power. Also, a House Resolution or House Concurrent Resolution would be a more appropriate vehicle for this legislation. Vote 12-0.

**HB 1372**, defining certain terms relating to military service. **OUGHT TO PASS WITH AMENDMENT**

Rep. Ken Hawkins for State-Federal Relations and Veterans Affairs: This bill defines the term "veteran" and who qualifies to be a "veteran." It also includes the document names that may be used to establish an individuals discharge status. Only persons discharged under the honorable discharge or a service connected disability will qualify for veteran status. Vote 11-0.

**Amendment (0305h)**

Amend RSA 21:50, I(a)(2) as inserted by section 1 of the bill by replacing it with the following:

(2) Has been discharged or released from duty in the United States armed forces with:

(A) An honorable discharge; or

(B) An uncharacterized discharge based on a service-connected injury, illness, or disability.

**HCR 20**, affirming civil rights and liberties and opposing federal measures that infringe on such rights and liberties. **INEXPEDIENT TO LEGISLATE**

Rep. Cynthia P. Sweeney for State-Federal Relations and Veterans Affairs: While the committee feels that this bill raises important questions regarding the Patriot Act, we agree that this is not the proper vehicle for voicing those concerns. Vote 11-0.

**HCR 21, urging the reduction of the federal gasoline and diesel fuel excise tax. INEXPEDIENT TO LEGISLATE**

Rep. Peter M. Sullivan for State-Federal Relations and Veterans Affairs: While the sponsor's concerns about construction delay caused by federal environmental regulations are understandable, the course of action proposed by this resolution would not solve the problem. The state of New Hampshire would still be subject to EPA jurisdiction under the proposed plans and existing limitations on the use of gas tax revenues could endanger proposed plans to return passenger rail service to southern New Hampshire. In addition, the Commissioner of Transportation testified that the department opposes this resolution. Vote 11-0.

**HB 1128, relative to motor vehicle dealer registrations. INEXPEDIENT TO LEGISLATE**

Rep. Brenda L. Ferland for Transportation: This bill would modify the square footage needed to apply for an application for a retail vehicle dealership. Current law provides that the building must be at least 1,200 contiguous square feet for storing and displaying of vehicles. An automobile is a big investment and many people buy used ones. This bill would have eliminated one more form of consumer protection from purchasing a "lemon." The state issues dealer plates and many people assume dealer plates have been sanctioned by the Division of Motor Vehicles and dealers are above board. There are few regulations in the used car business. Current law helps to let you know a dealer is serious to make a sufficient business investment in a showroom and have some means of providing service and not run out at the first sign of fraud. Current law does not prohibit small dealerships from setting up as long as they are following state and local laws. The many attempts to eliminate the 1200 contiguous square feet is met with opposition from the Department of Motor Vehicles. Vote 12-0.

**HB 1276-FN, establishing Bronze Star and Silver Star number plates. OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Letourneau for Transportation: The original intent of this bill was to establish a special plate for veterans who have won Bronze and Silver Star medals. The committee is not opposed to that idea, but would like to utilize the current veteran license plate. The amendment would allow the committee to study the possibility of using stickers on the current veterans plates without the need to create a new plate issuance. The amendment allows for veterans of WW II who fought for the allies that are New Hampshire residents to qualify with proper discharge for veteran plates. Vote 12-0.

**Amendment (0433h)**

Amend the title of the bill by replacing it with the following:

AN ACT      relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

Amend the bill by replacing all after the enacting clause with the following:

1 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only upon application, proof of honorable discharge from the armed services as deemed appropriate by the director, and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. *The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II.* Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

2 Committee to Study Establishing Special Number Plates for Veterans Who Were Awarded the Bronze Star or the Silver Star.

I. There is established a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

II. The members of the committee shall be as follows:

- (a) Three members of the house, appointed by the speaker of the house of representatives.
- (b) Three members of the senate, appointed by the president of the senate.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee shall study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

V. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

VI. Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill makes certain veterans of World War II eligible for special number plates for veterans and establishes a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

### REGULAR CALENDAR

**HB 1224**, establishing the Uniform Trust Code in New Hampshire. **OUGHT TO PASS WITH AMENDMENT**

Rep. Tara G. Reardon for Commerce: This bill is modeled after The Uniform Trust Code and provides New Hampshire with a comprehensive and consistent framework of trust laws. The bill is a result of an intense yearlong study by representatives of the legal community, banking industry; the Attorney General's Office-Charitable Trust Division and the Probate Court. The statutory framework will reduce legal fees and questions of interpretation, and makes New Hampshire an appealing domicile for trusts to be located. Vote 12-0.

#### Amendment (0381h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Uniform Trust Code. Amend RSA by inserting after chapter 564-A the following new chapter:

#### CHAPTER 564-B UNIFORM TRUST CODE Article 1

##### General Provisions and Definitions

564-B:1-101 Short Title. This chapter may be cited as the Uniform Trust Code.

564-B:1-102 Scope. This chapter applies to express trusts, charitable or noncharitable, and trusts created pursuant to a statute, judgment, or decree that requires the trust to be administered in the manner of an express trust.

564-B:1-103 Definitions. In this chapter:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) "Beneficiary" means a person that:

(A) has a present or future beneficial interest in a trust, vested or contingent; or

(B) in a capacity other than that of trustee, holds a power of appointment over trust property.

(3) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in RSA 564-B:405(a).

(4) "Conservator" means a person appointed by the court to administer the estate of an individual pursuant to RSA 464-A:13.

(5) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

(6)(a) "Guardian of the estate" means a person appointed by a court to administer the estate of a minor, including a person described in RSA 463:19, or a person appointed by a court to serve as guardian of the estate of an incapacitated person, including a person described in described in RSA 464-A:26, I.

(b) "Guardian of the person" means a person appointed by a court to make decisions regarding the support, care and education of a minor, including as described in RSA 463:12, or a guardian of the person of an incapacitated individual appointed by a court, including a person appointed by the court to carry out the responsibilities described in RSA 464-A:25. The term does not include a guardian ad litem.

(7) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

(8) "Jurisdiction," with respect to a geographic area, includes a state or country.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government (including a governmental subdivision, agency, or instrumentality), public corporation, or any other legal or commercial entity.

(10) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

(12) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

(A) is a distributee or permissible distributee of trust income or principal;

(B) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) terminated on that date; or

(C) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

(15) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

(16) "Sign" means, with present intent to authenticate or adopt a record,

(i) to execute or adopt a tangible symbol; or

(ii) to attach to or logically associate with the record an electronic sound, symbol, or process.

(17) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

(19) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(20) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

(21) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

#### 564-B:1-104 Knowledge.

(a) Subject to subsection (b), a person has knowledge of a fact if the person:

(1) has actual knowledge of it;

(2) has received a notice or notification of it; or

(3) from all the facts and circumstances known to the person at the time in question, has reason to know it.

(b) An organization that conducts activities through employees has notice or knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if



it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

**564-B:1-105 Default And Mandatory Rules.**

(a) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

(b) The terms of a trust prevail over any provision of this chapter except:

- (1) the requirements for creating a trust;
- (2) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;
- (3) the requirement that a trust and its terms be for the benefit of its beneficiaries, and that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve;
- (4) the power of the court to modify or terminate a trust under RSA 564-B:4-410 through RSA 564-B:4-416;

(5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in article 5;

(6) the power of the court under RSA 564-B:7-702 to require, dispense with, or modify or terminate a bond;

(7) the power of the court under RSA 564-B:7-708(b) to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;

(8) the duty under RSA 564-B:8-813(b)(2) and (3) to notify qualified beneficiaries of an irrevocable trust who have attained 21 years of age of the existence of the trust, of the identity of the trustee, and of their right to request trustee's reports;

(9) the duty under RSA 564-B:8-813(a) to respond to the request of a beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust;

(10) the effect of an exculpatory term under RSA 564-B:10-1008;

(11) the rights under RSA 564-B:10-1010 through RSA 564-B:10-1013 of a person other than a trustee or beneficiary;

(12) statutory periods of limitation for commencing a judicial proceeding;

(13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and

(14) the subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in RSA 564-B:2-203 and RSA 564-B:2-204.

**564-B:1-106 Common Law of Trusts; Principles of Equity.** The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or another statute of this state.

**564-B:1-107 Governing Law.** The meaning and effect of the terms of a trust are determined by:

(1) the law of the jurisdiction designated in the terms unless the designation of that jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most significant relationship to the matter at issue; or

(2) in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

**564-B:1-108 Principal Place Of Administration.**

(a) Without precluding other means for establishing a sufficient connection with the designated jurisdiction, terms of a trust designating the principal place of administration are valid and controlling if:

(1) a trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction; or

(2) all or part of the administration occurs in the designated jurisdiction.

(b) A trustee is under a continuing duty to administer the trust at a place appropriate to its purposes, its administration, and the interests of the beneficiaries.

(c) Without precluding the right of the court to order, approve, or disapprove a transfer, the trustee, in furtherance of the duty prescribed by subsection (b), may transfer the trust's principal place of administration to another state or to a jurisdiction outside of the United States.

(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's principal place of administration not less than 60 days before initiating the transfer. The notice of proposed transfer must include:

- (1) the name of the jurisdiction to which the principal place of administration is to be transferred;
- (2) the address and telephone number at the new location at which the trustee can be contacted;
- (3) an explanation of the reasons for the proposed transfer;
- (4) the date on which the proposed transfer is anticipated to occur; and
- (5) the date, not less than 60 days after the giving of the notice, by which the qualified beneficiary must notify the trustee of an objection to the proposed transfer.

(e) The authority of a trustee under this section to transfer a trust's principal place of administration terminates if the qualified beneficiary or, if more than one, a majority of qualified beneficiaries, notifies the trustee of an objection to the proposed transfer on or before the date specified in the notice.

#### 564-B:1-109 Methods And Waiver Of Notice.

(a) Notice to a person under this chapter or the sending of a document to a person under this chapter must be accomplished in a manner reasonably suitable under the circumstances and likely to result in receipt of the notice or document. Permissible methods of notice or for sending a document include first-class mail, personal delivery, commercial delivery service, courier service, and delivery to the person's last known place of residence or place of business, or a properly directed electronic message.

(b) Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

(c) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

(d) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

#### 564-B:1-110 Others Treated As Qualified Beneficiaries.

(a) Whenever notice to qualified beneficiaries of a trust is required under this chapter, the trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

(b) A charitable organization expressly designated to receive distributions under the terms of a charitable trust or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in RSA 564-B:4-408 or RSA 564-B:4-409 has the rights of a qualified beneficiary under this chapter.

(c) The director of charitable trusts has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state.

#### 564-B:1-111 Nonjudicial Settlement Agreements.

(a) For purposes of this section, "interested persons" means persons whose consent would be required in order to achieve a binding settlement were the settlement to be approved by a court.

(b) Except as otherwise provided in subsection (c), interested persons may enter into a binding nonjudicial settlement agreement with respect to any matter involving a trust.

(c) A nonjudicial settlement agreement is valid only to the extent it does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by a court under this chapter or other applicable law.

(d) Matters that may be resolved by a nonjudicial settlement agreement include:

- (1) the interpretation or construction of the terms of the trust;
- (2) the approval of a trustee's report or accounting;
- (3) direction to a trustee to refrain from performing a particular act or the grant to a trustee of any necessary or desirable power;
- (4) the resignation or appointment of a trustee and the determination of a trustee's compensation;
- (5) transfer of a trust's principal place of administration; and
- (6) liability of a trustee for an action relating to the trust.

(e) Any interested person may request the court to approve a nonjudicial settlement agreement, to determine whether the representation as provided in article 3 was adequate, and to deter-

mine whether the agreement contains terms and conditions the court could have properly approved.

**564-B:1-112 Rules Of Construction.** The rules of construction that apply in this state to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

## Article 2

### Judicial Proceedings

#### **564-B:2-201 Role Of Court In Administration Of Trust.**

(a) The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.

(b) A trust, other than a trust created by a will, is not subject to continuing judicial supervision unless ordered by the court.

(c) A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights.

#### **564-B:2-202 Jurisdiction Over Trustee And Beneficiary.**

(a) By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration to this state, the trustee submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(b) With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in this state are subject to the jurisdiction of the courts of this state regarding any matter involving the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of this state regarding any matter involving the trust.

(c) This section does not preclude other methods of obtaining jurisdiction over a trustee, beneficiary, or other person receiving property from the trust.

#### **564-B:2-203 Subject-Matter Jurisdiction.**

(a) Except as provided in subsection (b) of this section, the probate court shall have exclusive jurisdiction of the interpretation, construction, modification and termination of a trust and over the appointment, removal, surcharge and administration of a trust as defined in RSA 564-A:1, I.

(b) The probate court has concurrent jurisdiction with the superior court of proceedings involving charitable uses and trusts other than express trusts, as described in RSA 564-A:1, I.

(c) Nothing in this section is intended to be inconsistent with RSA 547. To the extent that inconsistencies exist, RSA 547 controls.

#### **564-B:2-204 Venue.**

(a) Except as otherwise provided in subsection (b), venue for a judicial proceeding involving a trust is in the county of this state in which the trust's principal place of administration is or will be located. In the case of a testamentary trust where the estate is not yet closed, venue also may be in the county in which the decedent's estate is being administered.

(b) If a trust has no trustee, venue for a judicial proceeding for the appointment of a trustee is in a county of this state in which a beneficiary resides, in a county in which any trust property is located, and if the trust is created by will, in the county in which the decedent's estate was or is being administered.

## Article 3

### Representation

#### **564-B:3-301 Representation; Basic Effect.**

(a) Notice to a person who may represent and bind another person under this article has the same effect as if notice were given directly to the other person.

(b) The consent of a person who may represent and bind another person under this article is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

(c) Except as otherwise provided in RSA 564-B:4-411 and RSA 564-B:6-602, a person who under this article may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

**564-B:3-302 Representation By Holder Of General Testamentary Power Of Appointment.** To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

564-B:3-303 Representation By Fiduciaries And Parents. To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

- (1) a conservator may represent and bind the estate that the conservator controls;
- (2) a guardian of the estate may represent and bind the estate that the guardian of the estate controls;
- (3) a guardian of the person may represent and bind the ward if a guardian of the ward's estate has not been appointed;
- (4) an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;
- (5) a trustee may represent and bind the beneficiaries of the trust except as to matters relating to the administration or distribution of the trust;
- (6) a personal representative of a decedent's estate may represent and bind persons interested in the estate except as to matters relating to the administration or distribution of the estate; and
- (7) a parent may represent and bind the parent's minor or unborn child if neither a guardian of the estate or guardian of the person for the child has been appointed.

564-B:3-304 Representation By Person Having Substantially Identical Interest. Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented. Nothing in this section shall expand or limit the virtual representation of sui juris beneficiaries for purposes of RSA 564-A:3-c.

#### 564-B:3-305 Appointment Of Representative.

(a) If the court determines that an interest is not represented under this article, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown. A representative may be appointed to represent several persons or interests.

(b) A representative may act on behalf of the individual represented with respect to any matter arising under this chapter, whether or not a judicial proceeding concerning the trust is pending.

(c) In making decisions, a representative may consider general benefit accruing to the living members of the individual's family.

### Article 4

#### Creation, Validity, Modification, And Termination Of Trust

##### 564-B:4-401 Methods Of Creating Trust. A trust may be created by:

- (1) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;
- (2) declaration by the owner of property that the owner holds identifiable property as trustee; or
- (3) exercise of a power of appointment in favor of a trustee.

##### 564-B:4-402 Requirements For Creation.

(a) A trust is created only if:

- (1) the settlor has capacity to create a trust;
- (2) the settlor indicates an intention to create the trust;
- (3) the trust has a definite beneficiary or is:
  - (A) a charitable trust;
  - (B) a trust for the care of an animal, as provided in RSA 564-B:4-408; or
  - (C) a trust for a noncharitable purpose, as provided in RSA-B:4-409;
- (4) the trustee has duties to perform; and
- (5) the same person is not the sole trustee and sole beneficiary.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

564-B:4-403 Trusts Created In Other Jurisdictions. A trust not created by will is validly created if its creation complies with the law of the jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at the time of creation:

- (1) the settlor was domiciled, had a place of abode, or was a national;
- (2) a trustee was domiciled or had a place of business; or
- (3) any trust property was located.

564-B:4-404 Trust Purposes. A trust may be created only to the extent its purposes are lawful, not contrary to public policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries.

564-B:4-405 Charitable Purposes; Enforcement.

(a) A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

(b) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.

(c) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust. In any such proceeding the director of charitable trusts shall be joined as a necessary party.

564-B:4-406 Creation Of Trust Induced By Fraud, Duress, Or Undue Influence. A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

564-B:4-407 Evidence Of Oral Trust. Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.

564-B:4-408 Trust For Care Of Animal.

(a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A person having an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove a person appointed.

(c) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

564-B:4-409 Noncharitable Trust Without Ascertainable Beneficiary. Except as otherwise provided in RSA 564-B:4-408 or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than 21 years.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

564-B:4-410 Modification Or Termination Of Trust; Proceedings For Approval Or Disapproval.

(a) In addition to the methods of termination prescribed by RSA 564-B:4-411 through RSA 564-B:4-414, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

(b) A proceeding to approve or disapprove a proposed modification or termination under RSA 564-B:4-411 through RSA 564-B:4-416, or trust combination or division under RSA 564-B:4-417, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under RSA 564-B:4-411 may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under RSA 564-B:4-413, and in such proceeding, the director of charitable trusts shall be joined as a necessary party.

**564-B:4-411 Modification Or Termination Of Noncharitable Irrevocable Trust By Consent.**

(a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's modification or termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the guardian of the estate of the settlor, or, if none, the guardian of the person of the settlor, with the approval of the court supervising the guardianship if an agent is not so authorized.

(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent of all of the beneficiaries if the court concludes that modification is not inconsistent with a material purpose of the trust.

(c) A spendthrift provision in the terms of the trust is not presumed to constitute a material purpose of the trust.

(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute the trust property as agreed by the beneficiaries.

(e) If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection (a) or (b), the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected.

**564-B:4-412 Modification Or Termination Because Of Unanticipated Circumstances Or Inability To Administer Trust Effectively.**

(a) Upon petition by the settlor, the trustee or trustees, the director of charitable trusts or an interested party, the court may modify the administrative or dispositive terms of a trust or terminate the trust if, because of circumstances not anticipated by the settlor, modification or termination will further the purposes of the trust. To the extent practicable, the modification must be made in accordance with the settlor's probable intention.

(b) The court may modify the administrative terms of a trust if continuation of the trust on its existing terms would be impracticable or wasteful or impair the trust's administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

**564-B:4-413 Cy Pres.**

(a) Except as otherwise provided in subsection (b), if a particular charitable purpose becomes impossible, impracticable, illegal, obsolete ineffective or prejudicial to the public interest to achieve:

(1) the trust does not fail, in whole or in part;

(2) the trust property does not revert to the settlor or the settlor's successors in interest; and

(3) upon petition by the settlor, the trustee or trustees, the director of charitable trusts or an interested party, the court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, to a charitable purpose which is useful to the community and which fulfills as nearly as possible the general charitable intent of the settlor.

(b) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection (a) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

(1) the trust property is to revert to the settlor and the settlor is still living; or

(2) fewer than 21 years have elapsed since the date of the trust's creation.

**564-B:4-414 Modification Or Termination Of Uneconomic Trust.**

(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust property having a total value less than \$100,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

(b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

(d) This section does not apply to an easement for conservation or preservation.

**564-B:4-415 Reformation To Correct Mistakes.** The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

**564-B:4-416 Modification To Achieve Settlor's Tax Objectives.** To achieve the settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.

**564-B:4-417 Combination And Division Of Trusts** After notice to the qualified beneficiaries, a trustee may combine 2 or more trusts into a single trust or divide a trust into 2 or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

## Article 5

### Creditor's Claims; Spendthrift And Discretionary Trusts

**564-B:5-501 Rights Of Beneficiary's Creditor Or Assignee.** To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

**564-B:5-502 Spendthrift Provision.**

(a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.

(b) A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.

(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this article, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

**564-B:5-503 Exceptions To Spendthrift Provision.**

(a) In this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) Even if a trust contains a spendthrift provision, the following may obtain from a court an order attaching present or future distributions to or for the benefit of a beneficiary:

(1) a beneficiary's child for whom there is a judgment or court order against the beneficiary for support;

(2) a beneficiary's spouse or former spouse who has a judgment or court order against the beneficiary for alimony but only for and to the extent that such judgment or court order expressly specifies the alimony amount attributable to the most basic food, shelter and medical needs of the spouse or former spouse; or

(3) a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust.

(c) A spendthrift provision is unenforceable against a claim of this state or the United States to the extent a statute of this state or federal law so provides.

(d) Nothing in this section or RSA 564-B:5-502 shall be construed to prevent the application of RSA 545-A, the Uniform Fraudulent Transfer Act, or a similar law of another state having jurisdiction over a transfer of property.

**564-B:5-504 Discretionary Trusts; Effect Of Standard.**

(a) In this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another state.

(b) Except as otherwise provided in subsection (c), whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) the discretion is expressed in the form of a standard of distribution; or

(2) the trustee has abused the discretion.

(c) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

(1) a distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support of the beneficiary's child or for alimony for the beneficiary's spouse, or former spouse; and

(2) the court shall direct the trustee to pay to the child, spouse, or former spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

(d) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

#### 564-B:5-505 Creditor's Claim Against Settlor.

(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution. This subparagraph shall not apply to an irrevocable "special needs trust" established for a disabled person as described in 42 U.S.C. 1396p(d)(4) or similar federal law governing the transfer to such a trust.

(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, and expenses.

(b) For purposes of this section:

(1) during the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

(2) upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in Section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, or Section 2503(b) of the Internal Revenue Code of 1986, in each case as in effect on the effective date of this chapter, or as later amended.

564-B:5-506 Overdue Distribution. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the designated distribution date.

564-B:5-507 Personal Obligations Of Trustee. Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

### Article 6

#### Revocable Trusts

564-B:6-601 Capacity Of Settlor Of Revocable Trust. The capacity required to create, amend, revoke, or add property to a revocable trust, or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

#### 564-B:6-602 Revocation Or Amendment Of Revocable Trust.

(a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before the effective date of this chapter.

(b) If a revocable trust is created or funded by more than one settlor:

(1) to the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and

(2) to the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard to the portion of the trust property attributable to that settlor's contribution; and



(3) upon the revocation or amendment of the trust by fewer than all of the settlors, the trustee shall promptly notify the other settlors of the revocation or amendment.

(c) The settlor may revoke or amend a revocable trust:

(1) by substantial compliance with a method provided in the terms of the trust; or

(2) by any other method manifesting clear and convincing evidence of the settlor's intent if the terms of the trust do not provide a method or do not expressly prohibit methods other than methods provided in the terms of the trust.

(d) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs.

(e) A settlor's powers with respect to revocation, amendment, or distribution of trust property may not be exercised by an agent under a power of attorney. Any such revocation or amendment by an agent under a power of attorney shall be effective only if made in a signed record and shall be effective only when sent to the trustee.

(f) A conservator of the settlor or a guardian of the estate of the settlor, or, if no guardian of the estate has been appointed, a guardian of the person of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship.

(g) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked.

#### 564-B:6-603 Settlor's Powers; Powers Of Withdrawal.

(a) While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor.

(b) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

#### 564-B:6-604 Limitation On Action Contesting Validity Of Revocable Trust; Distribution Of Trust Property.

(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

(1) Three years after the settlor's death; or

(2) 180 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:

(1) the trustee knows of a pending judicial proceeding contesting the validity of the trust; or

(2) a potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

(c) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

### Article 7

#### Office Of Trustee

#### 564-B:7-701 Accepting Or Declining Trusteeship.

(a) Except as otherwise provided in subsection (c), a person designated as trustee accepts the trusteeship:

(1) by substantially complying with a method of acceptance provided in the terms of the trust; or

(2) if the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

(c) A person designated as trustee, without accepting the trusteeship, may:

(1) act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

(2) inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

#### 564-B:7-702 Trustee's Bond.

(a) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

(b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(c) The following entities need not give bond, even if required by the terms of the trust:

(1) Any trust company, bank, or savings association incorporated under the laws of this state, or any national bank or federally chartered savings association duly authorized and located within this state; and

(2) Any trust company, bank, or savings association incorporated under the laws of any other state, or any national bank or federally chartered savings association having its principal place of business in any other state, if such entity is permitted to exercise fiduciary powers in this state pursuant to RSA 390:13, II.

#### 564-B:7-703 Cotrustees.

(a) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

(c) A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

(d) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

(e) A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

(f) Except as otherwise provided in subsection (g), a trustee who does not join in an action of another trustee is not liable for the action.

(g) Each trustee shall exercise reasonable care to:

(1) prevent a cotrustee from committing a serious breach of trust; and

(2) compel a cotrustee to redress a serious breach of trust.

(h) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

#### 564-B:7-704 Vacancy In Trusteeship; Appointment Of Successor.

(a) A vacancy in a trusteeship occurs if:

(1) a person designated as trustee rejects the trusteeship;

(2) a person designated as trustee cannot be identified or does not exist;

(3) a trustee resigns;

(4) a trustee is disqualified or removed;

(5) a trustee dies; or

(6) a guardian of the estate or guardian of the person or conservator is appointed for an individual serving as trustee.

(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

(c) A vacancy in a trusteeship of a noncharitable trust that is required to be filled must be filled in the following order of priority:

(1) by a person designated in the terms of the trust to act as successor trustee;

- (2) by a person appointed by unanimous agreement of the qualified beneficiaries; or
- (3) by a person appointed by the court.

(d) A vacancy in a trusteeship of a charitable trust that is required to be filled must be filled in the following order of priority:

- (1) by a person designated in the terms of the trust to act as successor trustee;

(2) by a person selected by the charitable organizations expressly designated to receive distributions under the terms of the trust if the director of charitable trusts concurs in the selection; or

- (3) by a person appointed by the court.

(e) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court may appoint an additional trustee or special fiduciary whenever the court considers the appointment necessary for the administration of the trust.

#### 564-B:7-705 Resignation Of Trustee.

- (a) A trustee may resign:

(1) upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or

- (2) with the approval of the court.

(b) In approving a resignation, the court may issue orders and impose conditions reasonably necessary for the protection of the trust property.

(c) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or omissions of the trustee is not discharged or affected by the trustee's resignation.

#### 564-B:7-706 Removal Of Trustee.

(a) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, or a trustee may be removed by the court on its own initiative.

(b) In addition to the power to remove a trustee pursuant to RSA 564:9, the court may remove a trustee if:

- (1) the trustee has committed a serious breach of trust;

- (2) lack of cooperation among cotrustees substantially impairs the administration of the trust;

(3) because of unfitness, unwillingness, persistent failure of the trustee to administer the trust effectively, the court determines that removal of the trustee best serves the interests of the beneficiaries; or

(4) there has been a substantial change of circumstances or removal is requested by all of the qualified beneficiaries, the court finds that removal of the trustee best serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of the trust, and a suitable cotrustee or successor trustee is available.

(c) Pending a final decision on a request to remove a trustee, or in lieu of or in addition to removing a trustee, the court may order such appropriate relief under RSA 564-B:10-1001(b) as may be necessary to protect the trust property or the interests of the beneficiaries.

#### 564-B:7-707 Delivery Of Property By Former Trustee

(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust property is delivered to a successor trustee or other person entitled to it, a trustee who has resigned or been removed has the duties of a trustee and the powers necessary to protect the trust property.

(b) A trustee who has resigned or been removed shall proceed expeditiously to deliver the trust property within the trustee's possession to the cotrustee, successor trustee, or other person entitled to it.

#### 564-B:7-708 Compensation Of Trustee.

(a) If the terms of a trust do not specify the trustee's compensation, a trustee is entitled to compensation that is reasonable under the circumstances.

(b) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be compensated as specified, but the court may allow more or less compensation if:

(1) the duties of the trustee are substantially different from those contemplated when the trust was created; or

- (2) the compensation specified by the terms of the trust would be unreasonably low or high.

#### 564-B:7-709 Reimbursement Of Expenses.

(a) A trustee is entitled to be reimbursed out of the trust property, with interest as appropriate, for:

(1) expenses that were properly incurred in the administration of the trust; and  
(2) to the extent necessary to prevent unjust enrichment of the trust, expenses that were not properly incurred in the administration of the trust.

(b) An advance by the trustee of money for the protection of the trust gives rise to a lien against trust property to secure reimbursement with reasonable interest.

564-B:7-710 Coordination With RSA 564. Nothing in this article is intended to modify or limit the provisions of RSA 564 as they apply to testamentary trusts. To the extent the provisions of this article conflict with the provisions of RSA 564 as they apply to testamentary trusts, the provisions of RSA 564 shall control.

## Article 8

### Duties And Powers Of Trustee

564-B:8-801 Duty To Administer, Invest And Manage Trust. Upon acceptance of a trusteeship, the trustee shall administer, invest and manage the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, and in accordance with this chapter.

564-B:8-802 Duty Of Loyalty.

(a) A trustee shall administer, invest and manage the trust solely in the interests of the beneficiaries.

(b) Subject to the rights of persons dealing with or assisting the trustee as provided in RSA 564-B:10-1012, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

(1) the transaction was authorized by the terms of the trust;

(2) the transaction was approved by the court;

(3) the beneficiary did not commence a judicial proceeding within the time allowed by RSA 564-B:10-1005;

(4) the beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with RSA 564-B:10-1009; or

(5) the transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

(c) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

(1) the trustee's spouse;

(2) the trustee's descendants, siblings, parents, or their spouses;

(3) an agent or attorney of the trustee; or

(4) a corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

(d) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

(e) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

(f) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of article 9. In addition to its compensation for acting as trustee, the trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust. If the trustee receives compensation from the investment company or investment trust for providing investment advisory or investment management services, the trustee at least annually shall notify the persons entitled under RSA 564-A:8-813 to receive a copy of the trustee's annual report of the rate and method by which that compensation was determined.

(g) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the

sole owner of a corporation or other form of enterprise, the trustee shall elect or appoint directors or other managers who will manage the corporation or enterprise in the best interests of the beneficiaries.

(h) This section does not preclude the following transactions, if fair to the beneficiaries:

- (1) an agreement between a trustee and a beneficiary relating to the appointment or compensation of the trustee;
- (2) payment of reasonable compensation to the trustee;
- (3) a transaction between a trust and another trust, decedent's estate, guardianship or conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;
- (4) a deposit of trust money in a regulated financial-service institution operated by the trustee; or
- (5) an advance by the trustee of money for the protection of the trust.

(i) The court may appoint a special fiduciary to make a decision with respect to any proposed transaction that might violate this section if entered into by the trustee.

**564-B:8-803 Impartiality.** If a trust has 2 or more beneficiaries, the trustee shall act impartially in administering, investing, managing, and distributing the trust property, giving due regard to the beneficiaries' respective interests.

**564-B:8-804 Prudent Administration.** A trustee shall administer the trust as a prudent person would, by considering the purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

**564-B:8-805 Costs Of Administration.** In administering a trust and in investing and managing trust assets, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

**564-B:8-806 Trustee's Skills.** A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

**564-B:8-807 Delegation By Trustee.**

(a) A trustee may delegate duties, powers and investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (1) selecting an agent;
- (2) establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with subsection (a) is not liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.

(d) By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

**564-B:8-808 Powers To Direct.**

(a) While a trust is revocable, the trustee may follow a direction of the settlor that is contrary to the terms of the trust.

(b) If the terms of a trust confer upon a person other than the settlor of a revocable trust power to direct certain actions of the trustee, the trustee shall act in accordance with an exercise of the power unless the attempted exercise is manifestly contrary to the terms of the trust or the trustee knows the attempted exercise would constitute a serious breach of a fiduciary duty that the person holding the power owes to the beneficiaries of the trust.

(c) The terms of a trust may confer upon a trustee or other person a power to direct the modification or termination of the trust.

(d) A person, other than a beneficiary, who holds a power to direct is presumptively a fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that results from breach of a fiduciary duty.

**564-B:8-809 Control And Protection Of Trust Property.** A trustee shall take reasonable steps to take control of and protect the trust property.

**564-B:8-810 Recordkeeping And Identification Of Trust Property.**

(a) A trustee shall keep adequate records of the administration of the trust.

(b) A trustee shall keep trust property separate from the trustee's own property.

(c) Except as otherwise provided in subsection (d), a trustee shall cause the trust property to be designated so that the interest of the trust, to the extent feasible, appears in records maintained by a party other than a trustee or beneficiary.

(d) If the trustee maintains records clearly indicating the respective interests, a trustee may invest as a whole the property of 2 or more separate trusts.

**564-B:8-811 Enforcement And Defense Of Claims.** A trustee shall take reasonable steps to enforce claims of the trust and to defend claims against the trust.

**564-B:8-812 Collecting Trust Property.** A trustee shall take reasonable steps to compel a former trustee or other person to deliver trust property to the trustee, and to redress a breach of trust known to the trustee to have been committed by a former trustee.

**564-B:8-813 Duty To Inform And Report.**

(a) A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a qualified beneficiary's request for information related to the administration of the trust.

(b) A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(3) within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c); and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

(c) A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, guardian of the estate or guardian of the person may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

(d) A qualified beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A qualified beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

**564-B:8-814 Discretionary Powers; Tax Savings.**

(a) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

(b) Subject to subsection (d), and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

(1) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended; and

(2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

(c) A power whose exercise is limited or prohibited by subsection (b) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

(d) Subsection (b) does not apply to:

(1) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, as in effect on [the effective date of this chapter, or as later amended, was previously allowed;

(2) any trust during any period that the trust may be revoked or amended by its settlor; or

(3) a trust if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended.

#### 564-B:8-815 General Powers Of Trustee.

(a) A trustee, without authorization by the court, may exercise:

(1) powers conferred by the terms of the trust; and

(2) except as limited by the terms of the trust:

(A) all powers over the trust property which an unmarried competent owner has over individually owned property;

(B) any other powers appropriate to achieve the proper administration, investment, management, and distribution of the trust property; and

(C) any other powers conferred by this chapter.

(b) The exercise of a power is subject to the fiduciary duties prescribed by this article.

#### 564-B:8-816 Specific Powers Of Trustee.

(a) Without limiting the authority conferred by RSA 564-B:8-815, a trustee may:

(1) collect trust property and accept or reject additions to the trust property from a settlor or any other person and trust property may be accepted from a settlor and retained even though it includes an asset in which the trustee is personally interested;

(2) acquire or sell property, for cash or on credit, at public or private sale, including acquiring an undivided interest in a trust asset in which the trustee, in any trust capacity, holds an undivided interest;

(3) exchange, partition, or otherwise change the character of trust property;

(4) deposit trust money in an account in a regulated financial-service institution;

(5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;

(7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

(A) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(B) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(C) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(D) deposit the securities with a depository or other regulated financial-service institution;

(8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

(9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

(10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;

(11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;

(12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;

(13) with respect to possible liability for violation of environmental law:

(A) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

(B) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

(C) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

(D) compromise claims against the trust which may be asserted for an alleged violation of environmental law;

(E) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law; and

(F) comply with the environmental provisions of RSA 564-A:3-a;

(14) pay or contest any claim, settle a claim by or against the trust; and release, in whole or in part, a claim belonging to the trust;

(15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

(16) exercise elections with respect to federal, state, and local taxes;

(17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

(18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;

(19) pledge trust property to guarantee loans made by others to the beneficiary;

(20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;

(21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(A) paying it to the beneficiary's conservator or to the guardian of the beneficiary's estate;

(B) paying it to the beneficiary's custodian under the Uniform Transfers to Minors Act or custodial trustee under the Uniform Custodial Trust Act, and, for that purpose, creating a custodianship or custodial trust;

(C) if the trustee does not know of a conservator, guardian of the estate of the beneficiary, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or

(D) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;

(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;



(24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers;

(26) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(27) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's administrative duties and to act without independent investigation upon their recommendations.

(b) An executor or other fiduciary administering a will has all powers conferred by this section unless limited in the will.

#### 564-B:8-817 Distribution Upon Termination.

(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it, subject to the right of the trustee to retain a reasonable reserve for the payment of debts, expenses, and taxes.

(c) A release by a beneficiary of a trustee from liability for breach of trust is invalid to the extent:

(1) it was induced by improper conduct of the trustee; or

(2) beneficiary, at the time of the release, did not know of the beneficiary's rights or of the material facts relating to the breach.

### Article 9

#### Uniform Prudent Investor Act

#### 564-B:9-901 Prudent Investor Rule.

(a) Except as otherwise provided in subsection (b), a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this chapter.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

#### 564-B:9-902 Standard Of Care; Portfolio Strategy; Risk And Return Objectives.

(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

(1) general economic conditions;

(2) the possible effect of inflation or deflation;

(3) the expected tax consequences of investment decisions or strategies;

(4) the role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;

(5) the expected total return from income and the appreciation of capital;

(6) other resources of the beneficiaries;

(7) needs for liquidity, regularity of income, and preservation or appreciation of capital; and

(8) an asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this chapter.

564-B:9-903 Diversification. A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

564-B:9-904 Duties At Inception Of Trusteeship. Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the trust, and with the requirements of this chapter.

564-B:9-905 Reviewing Compliance. Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

564-B:9-906 Language Invoking Standard Of Article. The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this article: "investments permissible by law for investment of trust funds," "legal investments," "authorized investments," "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital," "prudent man rule," "prudent trustee rule," "prudent person rule," and "prudent investor rule."

#### Article 10

##### Liability Of Trustees And Rights Of Persons Dealing With Trustee

##### 564-B:10-1001 Remedies For Breach Of Trust

- (a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of trust.
- (b) To remedy a breach of trust that has occurred or may occur, the court may:
  - (1) compel the trustee to perform the trustee's duties;
  - (2) enjoin the trustee from committing a breach of trust;
  - (3) compel the trustee to redress a breach of trust by paying money, restoring property, or other means;
  - (4) order a trustee to account;
  - (5) appoint a special fiduciary to take possession of the trust property and administer the trust;
  - (6) suspend the trustee;
  - (7) remove the trustee as provided in RSA 564-B:7-706;
  - (8) reduce or deny compensation to the trustee;
  - (9) subject to RSA 564-B:10-1012, void an act of the trustee, impose a lien or a constructive trust on trust property, or trace trust property wrongfully disposed of and recover the property or its proceeds; or
  - (10) order any other appropriate relief, including relief under RSA 547:3-b.

##### 564-B:10-1002 Damages For Breach Of Trust.

(a) A trustee who commits a breach of trust is liable to the beneficiaries affected for the greater of:

- (1) the amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (2) the profit the trustee made by reason of the breach.

(b) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees, to the extent permitted by RSA 507:7-f. However, a trustee is not entitled to contribution if the trustee was substantially more at fault than another trustee or if the trustee committed the breach of trust in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

##### 564-B:10-1003 Damages In Absence Of Breach.

(a) A trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trust, even absent a breach of trust. This section does not preclude the payment of reasonable trustee compensation.

(b) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or depreciation in the value of trust property or for not having made a profit.

564-B:10-1004 Attorney's Fees And Costs. In a judicial proceeding involving the administration of a trust, the court, as justice and equity may require, may award costs and expenses, including reasonable attorney's fees, to any party, to be paid by another party or from the trust that is the subject of the controversy.

564-B:10-1005 Limitation Of Action Against Trustee.

(a) A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

(b) A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

(c) If subsection (a) does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within 3 years after the first to occur of:

- (1) the removal, resignation, or death of the trustee;
- (2) the termination of the beneficiary's interest in the trust; or
- (3) the termination of the trust.

564-B:10-1006 Reliance On Trust Instrument. A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance.

564-B:10-1007 Event Affecting Administration Or Distribution. If the happening of an event, including marriage, divorce, performance of educational requirements, or death, affects the administration or distribution of a trust, a trustee who has exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting from the trustee's lack of knowledge.

564-B:10-1008 Exculpation Of Trustee.

(a) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to the extent that it:

- (1) relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or
- (2) was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

(b) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

564-B:10-1009 Beneficiary's Consent, Release, Or Ratification. A trustee is not liable to a beneficiary for breach of trust if the beneficiary, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

- (1) the consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or
- (2) at the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

564-B:10-1010 Limitation On Personal Liability Of Trustee.

(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

(b) A trustee is personally liable for torts committed in the course of administering a trust, or for obligations arising from ownership or control of trust property, including liability for violation of environmental law, only if the trustee is personally at fault.

(c) A claim based on a contract entered into by a trustee in the trustee's fiduciary capacity, on an obligation arising from ownership or control of trust property, or on a tort committed in the course of administering a trust, may be asserted in a judicial proceeding against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally liable for the claim.

564-B:10-1011 Interest As General Partner.

(a) Except as otherwise provided in subsection (c) or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract. The requirement of disclosure in the contract will be satisfied if the trustee signs the contract, or signs another writing which is contemporaneously delivered to the other parties to the contract, in a manner that clearly evidences that the trustee executed the contract in a fiduciary capacity.

(b) Except as otherwise provided in subsection (c), a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

(c) The immunity provided by this section for a trustee who holds an interest as a general partner does not apply if a general partnership interest in the partnership is held personally by the person serving as trustee.

(d) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

#### 564-B:10-1012 Protection Of Person Dealing With Trustee.

(a) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

(b) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

(c) A person who in good faith delivers assets to a trustee need not ensure their proper application.

(d) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

(e) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

#### 564-B:10-1013 Certification Of Trust.

(a) Instead of furnishing a copy of the trust instrument to a person other than a beneficiary, the trustee may furnish to the person a certification of trust containing the following information:

(1) that the trust exists and the date the trust instrument was executed;

(2) the identity of the settlor;

(3) the identity and address of the currently acting trustee;

(4) the powers of the trustee;

(5) the revocability or irrevocability of the trust and the identity of any person holding a power to revoke the trust;

(6) the authority of cotrustees to sign or otherwise authenticate and whether all or less than all are required in order to exercise powers of the trustee;

(7) the trust's taxpayer identification number; and

(8) the manner of taking title to trust property.

(b) A certification of trust may be signed or otherwise authenticated by any trustee.

(c) A certification of trust must state that the trust has not been revoked, modified, or amended in any manner that would cause the representations contained in the certification of trust to be incorrect.

(d) A certification of trust need not contain the dispositive terms of a trust.

(e) A recipient of a certification of trust may require the trustee to furnish copies of those excerpts from the original trust instrument and later amendments which designate the trustee and confer upon the trustee the power to act in the pending transaction.

(f) A person who acts in reliance upon a certification of trust without knowledge that the representations contained therein are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the certification.

(g) A person who in good faith enters into a transaction in reliance upon a certification of trust may enforce the transaction against the trust property as if the representations contained in the certification were correct.

(h) A person making a demand for the trust instrument in addition to a certification of trust or excerpts is liable for damages if the court determines that the person did not act in good faith in demanding the trust instrument.

(i) This section does not limit the right of a person to obtain a copy of the trust instrument in a judicial proceeding concerning the trust.

## Article 11

### Miscellaneous Provisions

564-B:11-1101 Uniformity Of Application And Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

564-B:11-1102 Electronic Records And Signatures. The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7002) and supersede, modify, and limit the requirements of the Electronic Signatures in Global and National Commerce Act.

564-B:11-1103 Severability Clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

564-B:11-1104 Application To Existing Relationships.

(a) Except as otherwise provided in this chapter, on the effective date of this chapter:

(1) this chapter applies to all trusts created before, on, or after its effective date;

(2) this chapter applies to all judicial proceedings concerning trusts commenced on or after its effective date;

(3) this chapter applies to judicial proceedings concerning trusts commenced before its effective date unless the court finds that application of a particular provision of this chapter would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the particular provision of this chapter does not apply and the superseded law applies;

(4) any rule of construction or presumption provided in this chapter applies to trust instruments executed before the effective date of the chapter unless there is a clear indication of a contrary intent in the terms of the trust; and

(5) an act done before the effective date of the chapter is not affected by this chapter.

(b) If a right is acquired, extinguished, or barred upon the expiration of a prescribed period that has commenced to run under any other statute before the effective date of the chapter, that statute continues to apply to the right even if it has been repealed or superseded.

2 Charitable Trusts; References Added. Amend RSA 7:19-b, VI(b) to read as follows:

(b) This section shall not supplant or restrict the general powers of the probate courts with respect to charitable trusts pursuant to RSA 498, RSA 547:3 through 547:3-h, *RSA 564-B:2-203, article 4 of RSA 564-B*, or at common law. Nor do the standards set forth in paragraph II of this section supplant or restrict the standards that may lawfully be applied in connection with the doctrines of cy pres, deviation, and termination as applicable by the probate courts of this state in such proceedings.

3 Standard of Conduct; Reference Added. Amend RSA 292-B:6 to read as follows:

292-B:6 Standard of Conduct. In the administration of the powers to appropriate appreciation, to accumulate income or add income to principal, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise general standards of prudent investment as defined under ~~[RSA 564-A]~~ *article 9 of RSA 564-B* under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions. Provided, however, the appropriation of appreciation in any year in an amount greater than 7 percent

of the fair market value of the assets of the institution's endowment funds (calculated on the basis of market values determined at least quarterly and averaged over a period of 3 or more years) shall create a rebuttable presumption of imprudence on the part of the governing board.

4 Banks Authorized to Invest Trust Funds in Affiliated Investments; Reference Added. Amend RSA 384:65, III(a) to read as follows:

(a) Invest in the securities of an investment company or investment trust, to which such fiduciary or its affiliate provides services in a capacity other than as trustee, such as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent, administrator, or custodian, and such investment is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor standard pursuant to ~~[RSA 564-A:3-b]~~ **article 9 of RSA 564-B**.

5 Charitable Gift Annuities Exemption; Definitions; Reference Added. Amend RSA 403-E:1, V(e) to read as follows:

(e) Invests contributions made in exchange for charitable gift annuities solely in conformance with ~~[RSA 564-A:3-b]~~ **article 9 of RSA 564-B**, general standards of prudent investment.

6 General Powers and Duties of a Guardian of the Estate of a Minor. Amend RSA 463:19, II to read as follows:

II. Except as limited by statute or order of the court, the guardian of the estate shall have the power to perform, without court authorization, every act which persons of prudence, discretion[;] and intelligence[;] and exercising judgment and care as in the management of their own affairs[;] would perform **for the purposes of the guardianship**, including but not limited to, the powers specified in ~~[the Uniform Trustee's Powers Act pursuant to RSA 564-A:3]~~ **RSA 564-B:8-816**. The guardian of the estate, with court authorization, shall have the power to create and fund a trust, to terminate at some time after the termination of the guardianship, for the benefit of the minor into which all or part of such minor's estate may be transferred. Except in the case of a special needs trust as defined in ~~[RSA 564:23, H]~~ **RSA 564-B:5-505**, the trust shall not continue beyond the twenty-fifth birthday of the minor.

7 General Powers and Duties of Guardian of the Estate; Reference Change. Amend RSA 464-A:26, II to read as follows:

II. Except as limited by statute or order of the court, the guardian of the estate shall have the power to perform, without court authorization, every act which persons of prudence, discretion and intelligence and exercising judgment and care as in the management of their own affairs would perform for the purposes of the guardianship, including, but not limited to, the powers specified in ~~[the uniform trustees' powers act pursuant to RSA 564-A:3]~~ **RSA 564-B:8-816**.

8 Courts; Equity Powers and Proceedings; Limitation. Amend RSA 498:9 to read as follows:  
498:9 Limitation. The provisions of RSA 498:8 shall not apply to property exempt from attachment or to trust ~~[funds covered under the provisions of RSA 564:23, I]~~ **assets or a beneficiary's or settlor's interest in a trust to the extent protected by article 5 of RSA 564-B from the claim, attachment or reach of a creditor or assignee**.

9 Repeal. The following are repealed:

- I. RSA 564:15-a, relative to the termination of small trusts.
- II. RSA 564:18, relative to investments by trustees of estates.
- III. RSA 564:23, relative to creditors and assignees of beneficiaries of trusts.
- IV. RSA 564-A:1, III, relative to the "prudent man" definition.
- V. RSA 564-A:2, relative to the powers of a trustee conferred by the trust instrument or by law.
- VI. RSA 564-A:3, I, relative to trustee powers.
- VII. RSA 564-A:3, II, relative to trustee powers.
- VIII. RSA 564-A:3, III, relative to trustee powers.
- IX. RSA 564-A:3-b, relative to general standards of prudent investment.
- X. RSA 564-A:4, relative to a trustee's ability to delegate.
- XI. RSA 564-A:5, II, relative to power of court to permit transactions involving conflict of interest.

XII. RSA 564-A:6, relative to powers and liability of cotrustees.

XIII. RSA 564-A:7, I, relative to protection of third persons dealing with trustees.

10 Effective Date. This act shall take effect October 1, 2004.

Adopted.

Report adopted and ordered to third reading.

**HB 1289-FN-L**, relative to drug-free senior housing zones. **INEXPEDIENT TO LEGISLATE**  
 Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: Those who appeared before the committee in support were frightened because individuals came in and out of the housing units at all hours of the night. The Federal agency requires that the elderly, and the young disabled live in the same units. The committee felt this was a local problem and should be taken care of by the housing authority. They could hire their own security so that the people could feel secure in their own home. We feel that the housing authority should address this issue. One method is for the town to adopt by-laws establishing, as a drug-free zone, any area inclusive of public housing authority property and within 1,000 feet of such public housing authority property as allowed under RSA 31:41-e passed in the 1991 session and effective Jan. 1, 1992. This bill is not necessary. Vote 13-3.  
 Adopted.

**HB 1134**, relative to appointment of the chief justice of the supreme court. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: REFER FOR INTERIM STUDY.**

Rep. James E. Wheeler for the Majority of Judiciary: This bill is a change to a statute passed by this legislature made in the aftermath of the impeachment proceedings of 2000. The committee believes that the governor and council should appoint the chief justice of the Supreme Court. The current law provides that the most senior justice shall automatically become the chief for a five-year term. This bill leaves intact the five-year term, but returns to the governor and council the power to appoint the chief. We are of the opinion that the chief position is such an important managerial position that it should not be left to seniority as the sole qualification. As a matter of public policy, we think the governor and council is best suited to determine the most suitable justice for the position of Chief Justice. We therefore think this bill as amended ought to pass. Vote 8-7.

Rep. Alf E. Jacobson for the Minority of Judiciary: Two years ago the General Court approved a change in the appointment of the Chief Justice of the Supreme Court to a succession system beginning with the senior justice in terms of time served. The present chief justice has now served less than two months. The Governor and Council have objected to the current law and have gone to court to seek to set aside current law as unconstitutional. It would seem reasonable that the General Court should wait until a decision comes from the Supreme Court on the question of constitutionality.

### Majority Amendment (0299h)

Amend the bill by replacing all after the enacting clause with the following:

1 Supreme Court; Appointment of Chief Justice. RSA 490:1 is repealed and reenacted to read as follows:

490:1 Justices. The supreme court shall consist of 5 justices appointed and commissioned as prescribed by the constitution. On the effective date of this section, the administrative position of chief justice shall be nominated and appointed by the governor and council, in accordance with part II, article 46 of the New Hampshire constitution, to a 5-year term.

2 Contingency. Section 1 of this act shall take effect upon the completion of the 5-year term of the current supreme court chief justice, as such term was prescribed in RSA 490:1 on the date he or she assumed the position of chief justice, or upon his or her termination as chief justice, whichever occurs first.

3 Effective Date.

I. Section 1 of this act shall take effect as provided in section 2 of this act.

II. The remainder of this act shall take effect upon its passage.

Majority amendment adopted.

Reps. Jacobson and John Pratt spoke against.

Rep. Rowe spoke in favor.

Rep. John Pratt requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 216 NAYS 135**

**YEAS 216**

**BELKNAP**

Ahern, Omer Jr  
 Clark, Charles  
 Laflam, Robert  
 Thomas, John

Allen, Janet  
 Fitzgerald, James  
 Nedeau, Stephen  
 Wendelboe, Fran

Bartlett, Gordon  
 Flanders, Donald  
 Rice, Thomas  
 Whalley, Michael

Boyce, Laurie  
 Holbrook, Robert  
 Russell, David

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry

Brown, Carolyn  
Kenney, Bettie  
Patten, Betsy

Derby, Mark  
McConkey, Mark  
Stevens, Stanley

Dickinson, Howard  
Morrow, Harry

**CHESHIRE**

Fish, Douglas  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

Liebl, George

**COOS**

Brady, Mark  
Tholl, John Jr

King, Frederick  
Woodward, David

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Ham, Bonnie  
Sorg, Gregory

Barker, Robert  
Gilman, G Michael  
Ingretson, Paul  
Williams, Burton

Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie

Dudley, Terri  
Giuda, Robert  
Naro, Debra

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Carter, Mark  
Coughlin, Pamela  
Elliott, Larry  
Gibson, John  
Hagan, Barbara  
Harrington, Paul  
Hunter, Bruce  
L'Heureux, Robert  
McElroy, Henry Jr  
Mooney, Maureen  
Pappas, Marc  
Ross, Lawrence  
Souza, Kathleen  
Vaillancourt, Steve

Allan, Nelson  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Cernota, Albert  
Crane, Elenore Casey  
Fields, Dennis  
Gonzalez, Carlos  
Hall, Charles  
Hawkins, Ken  
Infantine, William  
LaFlamme, Paul  
McHugh, Claire  
Moran, Edward  
Pepino, Leo  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, James

Allen, Timothy  
Balcom, John  
Bergeron, Jean-Guy  
Buhlman, David  
Christensen, D L Chris  
Desmarais, Vivian  
Fletcher, Richard  
Graham, John  
Hallyburton, Margaret  
Hinkle, Peyton  
Jasper, Shawn  
Lawrence, James  
McRae, Karen  
Mosher, William  
Price, Pamela  
Scanlon, Michael  
Tahir, Saghir

Arnold, Thomas Jr  
Barry, J Gail  
Bouchard, David  
Cail, Kenneth  
Christiansen, Lars  
Dionne, Kimberley  
Gargas, Carolyn  
Greenberg, Gary  
Hansen, Ryan  
Hopper, Gary  
Kurk, Neal  
Luebkert, Bernard  
Mercer, Robert  
O'Brien, Lori  
Reeves, Sandra  
Slocum, Lee  
Tate, Joan

**MERRIMACK**

Anderson, Eric  
Field, William  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom  
Soltani, Tony

Currier, David  
Foley, Albert  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Daniels, Eric  
Hess, David  
Langer, Ray  
Marple, Richard  
Oliver, James

Dunne, Christopher  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Reed, Dennis

**ROCKINGHAM**

Allen, Mary  
Bridle, Russell  
Cooney, Richard  
Doyle, Christopher  
Francoeur, Sheila  
Griffin, Mary  
Hutchinson, Karen  
Johnson, Rogers  
Kobel, Rudolph

Belanger, Ronald  
Camm, Kevin  
Dalrymple, Janeen  
Dumaine, Dudley  
Gilbert, Karl  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert

Bicknell, Elbert  
Carson, Sharon  
Dodge, Robert  
Fesh, Bob  
Gillick, Thomas  
Headd, James  
Introne, Robert  
Katsakiores, Phyllis  
Manning, John

Bishop, Franklin  
Clark, Vivian  
Dowd, John  
Flanders, John Sr  
Gleason, John  
Hughes, Daniel  
Itse, Daniel  
Kelley, Jane  
McEachern, Paul



McKinney, Betsy  
Noyes, Richard  
Putnam, Ed II  
Smith, Donald  
Weare, E Albert  
Wiley, Robert

McMahon, Charles  
O'Neil, Michael  
Quandt, Matthew  
Tufts, J Arthur  
Welch, David  
Winchell, George

Moore, Benjamin  
Packard, Sherman  
Roessner, Kurt  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

Morris, Richard  
Priestley, Anne  
Ruffner, Walter  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Musler, George  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Bickford, David  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Hollinger, Jeffrey  
Twombly, James

### SULLIVAN

Rodeschin, Beverly

### NAYS 135

### BELKNAP

Pilliod, James

### CARROLL

Olimpio, J Lisbeth

### CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

Dunn, James  
Meador, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Espiefs, Peter  
Parkhurst, Henry  
Robertson, Timothy

### COOS

Mears, Edgar

Poulin, Richard

Pratt, Leighton

Theberge, Robert

### GRAFTON

Akins, Ralph  
Cooney, Mary  
Nordgren, Sharon

Almy, Susan  
Densmore, Edward  
Scovner, Nancy

Benn, Bernard  
Diamond, Estelle  
Sokol, Hilda

Bleyler, Ruth  
Hammond, Lee  
Solomon, Peter

### HILLSBOROUGH

Bergin, Peter  
Clemmons, Jane  
Dokmo, Cynthia  
Irwin, Anne-Marie  
Kopka, Angeline  
Martin, Mary Ellen  
Palangas, Eric  
Sullivan, Peter

Brassard, Paul  
Cote, David  
Emerton, Larry  
Jean, Claudette  
Lasky, Bette  
Messier, Irene  
Pappas, Christopher  
Sweeney, Cynthia

Buckley, Raymond  
Cote, Peter  
Gorman, Mary  
Johnson, Lionel  
Leach, Edward  
Michon, Stephen  
Pilotte, Maurice  
Wheeler, Robert

Clayton, William  
Craig, James  
Haley, Robert  
Katsiantonis, Thomas  
Malloy, Chris  
Movsesian, Lori  
Shaw, Barbara

### MERRIMACK

Blanchard, Elizabeth  
Davis, Frank  
French, Barbara  
Osborne, Jessie  
Rodd, Beth

Bouchard, Candace  
DeJoie, John  
Gile, Mary  
Owen, Derek  
Rush, Deanna

Brueggemann, Donald  
DeStefano, Stephen  
Hamm, Christine  
Potter, Frances  
Seldin, Gloria

Clarke, Claire  
Fraser, Leo Jr  
Jacobson, Alf  
Reardon, Tara

### ROCKINGHAM

Blanchard, MaryAnn  
DiFruscia, Anthony  
Langone, John  
Robertson, Carl  
Vallone, Matthew

Casey, Kimberley  
Gould, Kenneth  
Norelli, Terie  
Shultis, Elizabeth

Coes, Betsy  
Johnson, Robert  
Pantelakos, Laura  
Splaine, James

Corbin, Corey  
Langley, Jane  
Rausch, James  
Stone, Joseph

**STRAFFORD**

Berube, Roger  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Katherine

Brown, Julie  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Taylor, Kathleen

Callaghan, Frank  
Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair  
Wall, Janet

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Spang, Judith

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Jones, Constance

Cloutier, John  
Franklin, Peter  
Leone, Richard

Donovan, Thomas  
Harris, Joseph  
Phinizy, James

and the majority committee report was adopted.  
Ordered to third reading.

**HB 1142, relative to tort liability to third persons for oil spills. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Robert H. Rowe for the Majority of Judiciary: This bill amends section 10 of New Hampshire RSA 146-A, a statute that is designed to expedite the clean up of oil spills that pollute the ground, ground water, streams and lakes of New Hampshire and encourage preventive measures. The statute refers to two forms of damages; section 3 requires the person, irrespective of fault, that caused the spill to bear the clean-up costs of removing the oil or contaminated earth; section 10 of the statute requires that a person who negligently or intentionally causes an oil spill that damages the property of another to pay damages in the amount of 1 ½ of the actual consequential damages. Example of damages to the private property owner could be the cost of the temporary loss of the use of the property, lost crops, having to relocate from the property, having to dig a new well, purchase bottled water or the loss of income from a temporary closure of a business. For the purpose of encouraging settlement and to insure the damaged property owner is made whole, the legislature authorized enhanced damages amount of 1 ½ actual damages. The legislature reasoned that enhanced damages would allow the injured property owner to be made whole as well as allowing the recovery of attorney's fees and costs. The bill before the committee would reduce the damages from 1 ½ damages to actual damages. While New Hampshire does not have a policy of punitive damages there are specific statutes that allow enhanced damages such as in the Consumer Protection Law and for the cutting of timber on another owners land. To date, the current law seems to be successful in protecting the environment and private property from oil spill damage as there are fewer incidents of oil spills. Vote 9-7.

Rep. Tony F. Soltani for the Minority of Judiciary: This bill was originally reported ought to pass by the Judiciary Committee and subsequently recommitted. It is important that nothing in the text of the bill has been changed, nor have any new facts come to light since the original passage of this bill. The committee simply took another vote on the same unamended bill. This bill sought to bring uniformity to New Hampshire laws which explicitly prohibit punitive damages. The existing law provides for a 150 percent windfall for victims of pollution without any heightened state of mind. The defendant need not act purposely, knowingly, or even recklessly to be one and one-half times liable to the victim. This is an aberration within our law. The proponents claim that this windfall is necessary in order to facilitate quick settlements and to ensure compliance with the law. These arguments are faulty since there are severe penalties payable to the state for such violations and New Hampshire public policy does not provide windfalls to victims of torts as a method of deterrence. Similarly we have not adopted a "loser pays" system. This latest logic would then be applicable to all strict liability and negligence torts. Under this theory victims of all torts should enjoy a 150 percent windfall for their damages to include auto accidents, slips and falls, dog bites, products liability, and of course, medical and legal malpractice actions. Victims of intentional torts, by this logic, should receive at least 200-300 percent windfall. This class would include victims of assaults, batteries, intentional infliction of emotional distress and sexual harassment. This reasoning is flawed and would devastate our commerce and economy while enriching a few at the expense of the public. It should also be noted that a motion to reconsider this vote failed in committee with a vote of 9-9.

Majority committee report adopted.

**HB 1177-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Phyllis L. Woods for the Majority of Judiciary: The committee heard many hours of testimony on this bill which requires the Division of Vital Records Administration to compile and maintain induced termination of pregnancy statistics and stipulates that only a physician licensed to practice medicine may perform abortions. New Hampshire is one of only three states that does not currently compile statistical information on induced termination of pregnancy. The majority of the committee agreed that it was desirable that we gather this data as long as we could assure the anonymity and absolute confidentiality of the information. Although protections are already in place to assure confidentiality of sensitive information compiled by the Division, an amendment was drafted to address the committee's concerns which put into place additional safeguards to protect the identity of the woman, the doctor, and the facility from being disclosed. These included a separate database which will be kept on a stand alone personal computer, which is not connected to any network, and maintained by only one employee selected by the director, and the use of code numbers for facilities and medical providers. A form was developed by the Division of Vital Records Administration based on the US Standard Report of Induced Termination of Pregnancy Forms, which is compiled from forms used by other states. The forms will be used to collect data, as in forty-seven other states, that will be useful in formulating public information programs for women identified to be at high risk for unintended pregnancy and to evaluate the effectiveness of family planning programs and methods of contraception. CDC's Center for Reproductive Health has recommended that this data could be used additionally to calculate pregnancy rates, in conjunction with births and fetal deaths, and to monitor trends in the number, rate, and ratio of abortion, type of procedures used, and gestational age at time of abortion. This information is crucial in planning effective programs to help women prevent unintended pregnancies in and addressing other health concerns. In *Planned Parenthood v. Casey*, the US Supreme Court agreed that, "The collection of information with respect to actual patients is a vital element of medical research..." The second provision of this bill added a section to our current laws relating to the practice of medicine and licensing of physicians and surgeons. It says simply that no one shall perform an abortion unless they are licensed to practice medicine. The committee was surprised to hear during the public hearing on this bill that nurses are doing abortions in New Hampshire. This is not within their scope of practice and is not allowed by law. The majority of the committee believes that if the Board of Nursing wants to legally do abortions in New Hampshire that they should propose enabling legislation that will address this issue. The Vice President of the Executive Board of the NH Medical Society testified before the committee that their position is the same as the American Medical Association; abortion is a surgical procedure that should be done by physicians only. This is the law in forty-five other states which regulate this practice. The majority of the committee believes that the women of New Hampshire deserve the same protection and that their health and safety should not be put at risk by having someone other than a doctor doing abortions, operating, or performing surgery on them for the sake of convenience or expediency. Vote 11-7.

Rep. Bette R. Lasky for the Minority of Judiciary: This bill as originally presented was to require the Department of Health and Human Services to compile and maintain induced termination of pregnancy statistics. The minority of the Judiciary Committee was amenable to the collection of limited health statistics regarding abortion, but urged collection be done in an aggregate format to ensure that no individualized patient or provider information could be released to the public at large. We have strong objections to the final bill as amended with the invasive and comprehensive nature of the personal health information to be collected. The reporting form endorsed by the majority seeks information far beyond what is typically collected in other states for the compilation of such statistics. Further, and of utmost importance, we urged greater efforts be made to protect the anonymity of the health care professionals who legally perform abortions in our state. Ultimately, we conclude that necessary concerns for patient privacy and the safety of providers are not sufficiently addressed in this bill as amended. In addition, the minority does not believe that the scope of health care professional practice regarding abortion care belongs in the Judiciary Committee. Though the bill now restricts the role of advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) in providing abortion care, there was no evidence presented of patient safety concerns or lack of competency on the part of providers currently offering these services in New Hampshire. In fact, a written statement was submitted by the NH Board of Nursing affirming that appro-

priately trained ARNPs are "well within their scope of practice to perform these procedures." In addition, a review of records showed no negative complaints or negative outcomes brought before the Board. Testimony at the hearing from health care organizations performing abortions here in New Hampshire clarified that ARNPs and PAs currently providing abortion care are working under the supervision of physicians. Given that the sponsors of this added restriction never proposed to limit ARNP and PA practice for other similarly invasive gynecological procedures currently performed in the state, we can only reasonably conclude that the motive behind this restriction is not the welfare and safety of patients, but the further erosion of access to otherwise qualified abortion care providers. Furthermore, this decision to include the amendment limiting their scope of practice without a new hearing solely on this matter is, in the minority opinion, too specific a matter for the scope and knowledge of the Judiciary Committee. Passage of this bill as amended is not worthy of the usual comprehensive and quality work of this committee and, worse still, compromises the safety and privacy of patients and abortion providers.

### **Majority Amendment (0560h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** requiring the division of vital records administration, department of state to compile and maintain induced termination of pregnancy statistics and to maintain a certain database.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Induced Termination of Pregnancy Statistics; Annual Report Required.  
Amend RSA 5-C by inserting after section 26 the following new subdivision:  
Induced Termination of Pregnancy Statistics

5-C:27 Induced Termination of Pregnancy; Annual Report.

I. In this subdivision:

(a) "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center, or other institution or location wherein medical care is provided to any person.

(b) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and which does not result in a live birth. This definition excludes management of prolonged retention of products of conception following fetal death.

(c) "Non-surgical induction" means the administration of a medication or medications to induce a termination of pregnancy.

(d) "Physician" means any person licensed to practice medicine under RSA 329.

(e) "Procedure" means the process by which an induced termination of pregnancy occurs.

II. A report of each induced termination of pregnancy shall be made to the division on the form entitled "Report of Induced Termination of Pregnancy" developed by the division in February, 2004. The director shall make such form available to facilities and medical facilities licensed under RSA 151. The form shall not be changed without legislative approval.

III. The reports shall be completed by the licensed facility and transmitted to the division within 5 days after the date of the procedure.

IV. The division shall prepare a comprehensive annual statistical report based upon the data gathered under this section. The information contained in the report may be released by county or city; provided, that the release of any information shall not lead to any disclosures described in paragraph V.

V.(a) Notwithstanding RSA 126:28 and except as otherwise provided in this section, information obtained by the division under this subdivision may be used only for statistical purposes and such information shall not be released in a manner which would lead to or permit the identification of the person for whom the procedure was performed. Any releases of the information obtained shall not disclose or permit the identification of any person filing a report, the facility at which the procedure was performed, or the identity of any person licensed to practice medicine and surgery who submits a report to the division under this section, except as follows:

(I) Information from reports provided, including information identifying such persons and facilities, may be disclosed to the state board of medicine upon request of the board for disciplinary action conducted by the board and may be disclosed to the attorney general upon a show-

ing that a reasonable cause exists to believe that a violation of this section has occurred. Any information disclosed to the state board of medicine or the attorney general pursuant to this subdivision shall be used solely for the purposes of a disciplinary action or criminal proceeding.

(2) Information from reports shall be provided to the federal Centers for Disease Control and Prevention for the purposes of national statistical summaries provided these summaries occur at the state level only and do not lead to any other disclosures as stated in this section.

(b) A violation of this section is a class A misdemeanor.

5-C:28 Database Required on Induced Termination of Pregnancies. The director shall select an individual who shall be an employee of the division and who shall maintain a database of the code numbers and respective names of the facilities and medical providers that provide induced termination of pregnancies procedures. This database shall be kept on a stand alone personal computer which is not connected to any network. Such database shall be maintained only by the employee selected by the director.

2 New Section; Abortions. Amend RSA 329 by inserting after section 1-b the following new section:

329:1-c Abortions. No person shall perform or induce an abortion unless such person is licensed under this chapter.

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect July 1, 2004.

### AMENDED ANALYSIS

This bill requires the division of vital records administration, department of state to keep an annual statistical report of each induced termination of pregnancy performed and to make such report available to the public. This bill also requires the director of the division to select a current employee of such division to maintain a database relative to induced termination of pregnancies.

Reps. Kurk, Craig, Julie Brown and Bergin spoke against.

Reps. Phyllis Woods spoke in favor.

Reps. Wendelboe spoke in favor and yielded to questions.

Rep. Phyllis Woods requested a roll call; sufficiently seconded.

The question being adoption of the majority committee amendment.

### YEAS 134 NAYS 217

#### YEAS 134

#### BELKNAP

Ahern, Omer Jr	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Laflam, Robert	Lawton, David	Rice, Thomas
Russell, David	Wendelboe, Fran	Whalley, Michael	

#### CARROLL

Brown, Carolyn	Derby, Mark	Kenney, Bettie	Mock, Henry
Stevens, Stanley			

#### CHESHIRE

Fish, Douglas	Laurent, John	Liebl, George
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#### COOS

Brady, Mark	Richardson, Herbert	Stohl, Eric
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#### GRAFTON

Dorsett, Andrew	Dudley, Terri	Gilman, G Michael	Giuda, Robert
Ingbertson, Paul	Maybeck, Margie	Sorg, Gregory	

#### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Batula, Peter	Bergeron, Jean-Guy
Bouchard, David	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buhlman, David	Cail, Kenneth	Cernota, Albert	Christiansen, Lars

Coughlin, Pamela  
Hagan, Barbara  
Hinkle, Peyton  
Jean, Claudette  
Luebker, Bernard  
Mercer, Robert  
Pappas, Marc  
Rowe, Robert  
Sweeney, Cynthia

Fields, Dennis  
Hall, Charles  
Hopper, Gary  
L'Heureux, Robert  
Martin, Mary Ellen  
Mooney, Maureen  
Pepino, Leo  
Slocum, Lee  
Tahir, Saghir

Gibson, John  
Hansen, Ryan  
Infantine, William  
LaFlamme, Paul  
McElroy, Henry Jr  
Moran, Edward  
Pilote, Maurice  
Souza, Kathleen  
Vaillancourt, Steve

Gonzalez, Carlos  
Harrington, Paul  
Jasper, Shawn  
Lawrence, James  
McHugh, Claire  
Mosher, William  
Reeves, Sandra  
Stepanek, Stephen  
Wheeler, James

### MERRIMACK

Field, William  
Soltani, Tony

Foley, Albert

Nutter, Edward

Reed, Dennis

### ROCKINGHAM

Bicknell, Elbert  
Dodge, Robert  
Griffin, Mary  
Introne, Robert  
Katsakiores, Phyllis  
Morris, Richard  
Quandt, Matthew  
Weare, E Albert  
Wiley, Robert

Bishop, Franklin  
Dowd, John  
Hamel, Albert  
Itse, Daniel  
Letourneau, Robert  
Noyes, Richard  
Ruffner, Walter  
Welch, David  
Zolla, William

Camm, Kevin  
Dumaine, Dudley  
Headd, James  
Johnson, Rogers  
Manning, John  
Packard, Sherman  
Varrell, Thomas  
Weldy, Norman Jr

Carson, Sharon  
Fesh, Bob  
Hughes, Daniel  
Katsakiores, George  
Moore, Benjamin  
Putnam, Ed II  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Campbell, W Packy  
Newton, Clifford

Bemis, Alan  
Cataldo, Sam  
Scott, David

Berube, Roger  
Easson, Timothy  
Twombly, James

Callaghan, Frank  
Hollinger, Jeffrey  
Woods, Phyllis

### SULLIVAN

Donovan, Thomas

Rodeschin, Beverly

### NAYS 217

### BELKNAP

Allen, Janet  
Pilliod, James

Bartlett, Gordon

Holbrook, Robert

Nedeau, Stephen

### CARROLL

Babson, David Jr  
Morrow, Harry

Dickinson, Howard  
Olimpio, J Lisbeth

Hatch, Paul  
Patten, Betsey

McConkey, Mark

### CHESHIRE

Allen, Peter  
Hunt, John  
Parkhurst, Henry  
Robertson, Timothy  
Tilton, Anna

Dunn, James  
Manning, Joseph  
Pratt, Irene  
Royce, H Charles  
Weed, Charles

Eaton, Daniel  
Meader, David  
Pratt, John  
Slack, Pamela

Espiefs, Peter  
Mitchell, McKim  
Richardson, Barbara  
Smith, Edwin

### COOS

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard  
Woodward, David

Pratt, Leighton

### GRAFTON

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Hammond, Lee  
Sokol, Hilda

Alger, John  
Bleyler, Ruth  
Eaton, Stephanie  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Cooney, Mary  
Gionet, Edmond  
Nordgren, Sharon  
Williams, Burton

Barker, Robert  
Densmore, Edward  
Ham, Bonnie  
Scovner, Nancy

**HILLSBOROUGH**

Balcom, John  
 Buckley, Raymond  
 Clemons, Jane  
 Crane, Elenore Casey  
 Elliott, Larry  
 Gorman, Mary  
 Hallyburton, Margaret  
 Johnson, Lionel  
 Lasky, Bette  
 Messier, Irene  
 Palangas, Eric  
 Scanlon, Michael  
 Wheeler, Robert

Barry, J Gail  
 Carter, Mark  
 Cote, David  
 Desmarais, Vivian  
 Emerton, Larry  
 Graham, John  
 Hawkins, Ken  
 Katsiantonis, Thomas  
 Leach, Edward  
 Michon, Stephen  
 Pappas, Christopher  
 Shaw, Barbara

Beaton, William  
 Christensen, D L Chris  
 Cote, Peter  
 Dionne, Kimberley  
 Fletcher, Richard  
 Greenberg, Gary  
 Hunter, Bruce  
 Kopka, Angeline  
 Malloy, Chris  
 Movsesian, Lori  
 Price, Pamela  
 Sullivan, Peter

Bergin, Peter  
 Clayton, William  
 Craig, James  
 Dokmo, Cynthia  
 Gargas, Carolyn  
 Haley, Robert  
 Irwin, Anne-Marie  
 Kurk, Neal  
 McRae, Karen  
 O'Brien, Lori  
 Ross, Lawrence  
 Tate, Joan

**MERRIMACK**

Anderson, Eric  
 Clarke, Claire  
 DeJoie, John  
 French, Barbara  
 Hess, David  
 Langer, Ray  
 Marple, Richard  
 Osborne, Jessie  
 Rodd, Beth

Blanchard, Elizabeth  
 Currier, David  
 DeStefano, Stephen  
 Gile, Mary  
 Jacobson, Alf  
 Leber, William  
 Maxfield, Roy  
 Owen, Derek  
 Rush, Deanna

Bouchard, Candace  
 Daniels, Eric  
 Dunne, Christopher  
 Hager, Elizabeth  
 Kenison, Leon  
 Lockwood, Priscilla  
 McCormick, Tom  
 Potter, Frances  
 Seldin, Gloria

Brueggemann, Donald  
 Davis, Frank  
 Fraser, Leo Jr  
 Hamm, Christine  
 L'Heureux, Stephen  
 MacKay, James  
 Oliver, James  
 Reardon, Tara

**ROCKINGHAM**

Allen, Mary  
 Casey, Kimberley  
 Corbin, Corey  
 Flanders, John Sr  
 Gleason, John  
 Johnson, Robert  
 Langone, John  
 Norelli, Terie  
 Rausch, James  
 Smith, Donald  
 Vallone, Matthew

Belanger, Ronald  
 Clark, Vivian  
 Dalrymple, Janeen  
 Francoeur, Sheila  
 Gould, Kenneth  
 Kelley, Jane  
 McEachern, Paul  
 O'Neil, Michael  
 Robertson, Carl  
 Splaine, James  
 Winchell, George

Blanchard, MaryAnn  
 Coes, Betsy  
 DiFruscia, Anthony  
 Gilbert, Karl  
 Hutchinson, Karen  
 Kobel, Rudolph  
 McKinney, Betsy  
 Pantelakos, Laura  
 Roessner, Kurt  
 Stone, Joseph

Bridle, Russell  
 Cooney, Richard  
 Doyle, Christopher  
 Gillick, Thomas  
 Ingram, Russell  
 Langley, Jane  
 McMahon, Charles  
 Priestley, Anne  
 Shultis, Elizabeth  
 Tufts, J Arthur

**STRAFFORD**

Bickford, David  
 Grassie, Anne  
 Johnson, Nancy  
 Miller, Joseph  
 Rous, Emma  
 Spang, Judith

Brown, Julie  
 Harrington, Michael  
 Kaen, Naida  
 Musler, George  
 Schmidt, Peter  
 Taylor, Katherine

Creteau, Irene  
 Heon, Richard  
 Keans, Sandra  
 Pelletier, Arthur  
 Smith, Marjorie  
 Taylor, Kathleen

Dunlap, Patricia  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Snyder, Clair  
 Wall, Janet

**SULLIVAN**

Allison, David  
 Flint, Gordon Sr  
 Jones, Constance

Burling, Peter  
 Franklin, Peter  
 Leone, Richard

Cloutier, John  
 Harris, Joseph  
 Phinizz, James

Ferland, Brenda  
 Harris, Sandra

and the majority committee amendment failed.

The question now being adoption of Ought to Pass.

Rep. Stephen L'Heureux spoke against.

Motion failed.

Rep. Stephen L'Heureux moved Inexpedient to Legislate.

Adopted.

**HB 1295**, relative to the right-to-know law. **OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Wheeler for Judiciary: After the public hearing the committee did not appear to be in support of the bill as presented. However, the chairman brought to our attention a problem that he thought could be addressed on this bill. We subsequently had a public hearing on an amendment that replaced the bill with a prohibition on sealing settlement records in suits brought against a governmental agency. The committee believes that the bill, as amended, fixes a very important problem in the "Right to Know" law. Currently, towns or cities have a confidentiality provision in settlement agreements and the people that pay the bill (the taxpayer) can never discover the cost to the taxpayer. We believe as a matter of public policy that the public has a right to know, when their money is being spent, directly or indirectly, whether by their insurance company or not and the circumstances relative to that public taxpayer expenditure. We therefore think this bill as amended ought to pass. Vote 15-0.

**Amendment (0463h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to certain court records.

Amend the bill by replacing all after the enacting clause with the following:

I New Subdivision; Actions Against Governmental Units. Amend RSA 507 by inserting after section 16 the following new subdivision:

Actions Against Governmental Units

507:17 Actions Against Governmental Units; Definition; Court Records.

I. "Governmental unit" means the state and any political subdivision within the state including any county, city, town, precinct, school district, charter school, school administrative unit, or departments or agencies thereof.

II. In any action against a governmental unit where the governmental unit has agreed to a settlement of such action, the complete terms of the settlement and the decree of the court judgment shall be available as a matter of public record pursuant to RSA 91-A.

III. The court may redact the names of minor children or any other person the court determines to be entitled to privacy.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill declares that certain court records involving an action against a governmental unit shall be available as a public record under RSA 91-A.

Rep. Mock yielded to questions.

Adopted.

Report adopted and ordered to third reading.

The House recessed at 12:00 p.m.

**RECESS****(Speaker Chandler in the Chair)**

The House reconvened at 1:00 p.m.

**REGULAR CALENDAR (CONT'D.)****HB 1309**, relative to noise pollution from shooting ranges. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James E. Wheeler for the Majority of Judiciary: Safe shooting ranges within the state are essential to providing places for the training of law enforcement personnel, firearms safety programs for youths, competitive shooting, hunter safety training, self defense training for citizens – all in a safe affordable shooting environment. Further, whereas Part I, Article 2-a of our New Hampshire Constitution states that "all persons have the right to keep and bear arms in defense of themselves, their families, their property and the state" does it not make common sense that suitable training facilities should be available in guaranteeing the furtherance of that constitutional right? The minority will argue that this is a local control issue but because the state has a compelling interest in serving ALL citizens and since the legislature has repeatedly rejected the home rule concept, the argument of "local control" is really null and void. There is no doubt that shooting



ranges serve a vital public interest. The committee heard testimony that several shooting ranges in the state have been taken to court, costing them tens of thousands of dollars, almost forcing them out of existence. This bill, as amended, will strengthen and clarify our states existing range protection law. The amendment makes clear that rules cannot be retroactively changed on the shooting range after they have begun operation or when the shooting range preexisted the regulation. This bill as amended does nothing to interfere with a localities ability to regulate a new shooting range. This bill will protect public safety by ensuring that all citizens still have a safe place to train. Vote 12-6.

Rep. Bette R. Lasky for the Minority of Judiciary: This bill as amended seeks to exempt shooting ranges and their owners and operators, now in operation, from being subject to civil liability or criminal prosecution in any matter relating to any nuisance including noise or noise pollution. Further, it "grandfathers" existing ranges from compliance with any state or local administrative rule, statute or ordinance. It also allows owners of a shooting range to bypass local land use boards and controls and proceed directly to Superior Court to enforce these immunities. No other parties are granted this advantage. The majority has attempted to characterize this as a "pro-gun" or "anti-gun" bill. That is not so. The minority believes in the value of shooting ranges both as a means of recreation and as a useful tool to train and educate people about gun use. What the minority does object to is that this bill attempts to solve a problem that does not exist. There was evidence of one range in Hollis that is involved in an ongoing law suit, but there is scant real evidence that existing ranges and their neighbors are not now peacefully coexisting. The minority believes the law now protects law abiding shooting ranges from nuisance complaints as is proper. However, this bill as amended upsets the balance between the rights of shooting ranges and homeowners and that these rights are better preserved through local control.

### **Majority Amendment (0646h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court recognizes that maintaining safe shooting ranges within the state is essential to provide places for the training of law enforcement, safety programs for youth, competitive shooting, hunter's safety training, self defense training for private citizens, and safe affordable shooting environments. The general court encourages shooting range owners and operators to exhibit reasonableness in applying the provisions of this exemption.

2 Shooting Ranges. RSA 159-B is repealed and reenacted to read as follows:

#### **CHAPTER 159-B SHOOTING RANGES**

159-B:1 Exemption. Notwithstanding the provisions of RSA 644:2, III(a) or any other law to the contrary, no person who owns, operates, or uses a shooting range in this state shall be subject to civil liability or criminal prosecution in any matter relating to noise or noise pollution, provided that the owners of the range are in compliance with any applicable noise control ordinances in existence at the time the range was established, was constructed, or began operations.

159-B:2 Injunctions. The owners, operators, or users of shooting ranges shall not be subject to any action for nuisance and no court shall enjoin the use or operation of a range on the basis of noise or noise pollution, provided that the owners of the range are in compliance with any noise control ordinance that was in existence at the time the range was established, was constructed, or began operations.

159-B:3 Expansion. Subsequent physical expansion of the shooting range or change in the types of firearms in use at the range shall not establish a new date of commencement of operations for the portion or portions in existence prior to the expansion for the purposes of this chapter.

159-B:4 Retroactivity Prohibited. No administrative rule, statute, or ordinance adopted, enacted, or proposed by the state of New Hampshire or its political subdivisions shall be applied retroactively to prohibit or limit the scope of the activities previously conducted at a shooting range, which was in operation prior to the adoption, enactment, enforcement, or proposal of the administrative rule, statute, or ordinance.

159-B:5 Nuisance. Notwithstanding any other law to the contrary, a person may not maintain a nuisance action for noise or noise pollution against a shooting range, or the owners, operators, or users of the range, located in the vicinity of that person's property, if the shooting range was established, constructed, or being used on a regular basis as of the date the person acquired the property.

159-B:6 Exemption From State Standards. No standard in rules adopted by any state agency for limiting levels of noise in terms of decibel level, which may occur in the outdoor atmosphere, shall apply to the shooting ranges exempted from liability under the provisions of this chapter.

159-B:7 Cause of Action. The owners of a shooting range shall have a right of action in superior court to enforce the provisions of this chapter.

159-B:8 Definitions. In this chapter:

I. "Noise" shall mean the intensity, duration, and character of sounds from all sources.

II. "Shooting range" shall mean a property or properties designed and operated for persons using rifles, shotguns, pistols, revolvers, or blackpowder weapons; archery; air rifles; silhouettes; skeet ranges; trap ranges; or other similar facilities.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill eliminates certain provisions authorizing local regulation of shooting ranges and makes certain immunities for shooting range owners additionally applicable to operators or users.

Reps. Almy and Franklin spoke against.

Rep. James Wheeler spoke in favor, yielded to questions and requested a roll call, sufficiently seconded.

The question being adoption of the majority committee amendment.

### YEAS 224 NAYS 121

#### YEAS 224

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Laffam, Robert	Lawton, David	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Stevens, Stanley			

#### CHESHIRE

Fish, Douglas	Hunt, John	Laurent, John	Liebl, George
Royce, H Charles	Smith, Edwin		

#### COOS

Brady, Mark	King, Frederick	Richardson, Herbert	Stohl, Eric
Tholl, John Jr	Woodward, David		

#### GRAFTON

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ham, Bonnie	Ingbretson, Paul	Maybeck, Margie	Naro, Debra
Sorg, Gregory	Williams, Burton		

#### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Balcom, John	Barry, J Gail
Batula, Peter	Beaton, William	Bergeron, Jean-Guy	Brassard, Paul
Brundige, Robert	Bruno, Pierre	Buhlman, David	Carter, Mark
Cernota, Albert	Christensen, D L Chris	Christiansen, Lars	Clayton, William
Coughlin, Pamela	Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley
Elliott, Larry	Emerton, Larry	Fields, Dennis	Fletcher, Richard

Gargas, Carolyn  
Greenberg, Gary  
Hallyburton, Margaret  
Hinkle, Peyton  
Jasper, Shawn  
Luebker, Bernard  
Mercer, Robert  
Mosher, William  
Pepino, Leo  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, James

Gibson, John  
Hagan, Barbara  
Hansen, Ryan  
Hopper, Gary  
L'Heureux, Robert  
McElroy, Henry Jr  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Sweeney, Cynthia

Gonzalez, Carlos  
Haley, Robert  
Harrington, Paul  
Hunter, Bruce  
LaFlamme, Paul  
McHugh, Claire  
Mooney, Maureen  
Palangas, Eric  
Reeves, Sandra  
Slocum, Lee  
Tate, Joan

Graham, John  
Hall, Charles  
Hawkins, Ken  
Infantine, William  
Lawrence, James  
McRae, Karen  
Moran, Edward  
Pappas, Marc  
Ross, Lawrence  
Souza, Kathleen  
Vaillancourt, Steve

### MERRIMACK

Blanchard, Elizabeth  
DeJoie, John  
Kenison, Leon  
Leber, William  
Nutter, Edward

Clarke, Claire  
Field, William  
Kennedy, Richard  
MacKay, James  
Oliver, James

Currier, David  
Foley, Albert  
L'Heureux, Stephen  
Marple, Richard  
Reed, Dennis

Daniels, Eric  
Fraser, Leo Jr  
Langer, Ray  
McCormick, Tom  
Soltani, Tony

### ROCKINGHAM

Allen, Mary  
Camm, Kevin  
Dalrymple, Janeen  
Dumaine, Dudley  
Gilbert, Karl  
Hughes, Daniel  
Itse, Daniel  
Katsakiores, Phyllis  
McKinney, Betsy  
Noyes, Richard  
Putnam, Ed II  
Roessner, Kurt  
Tufts, J Arthur  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Carson, Sharon  
DiFruscia, Anthony  
Fesh, Bob  
Gleason, John  
Hutchinson, Karen  
Johnson, Robert  
Kobel, Rudolph  
McMahon, Charles  
O'Neil, Michael  
Quandt, Matthew  
Smith, Donald  
Vallone, Matthew  
Welch, David  
Zolla, William

Bishop, Franklin  
Coes, Betsy  
Dodge, Robert  
Flanders, John Sr  
Griffin, Mary  
Ingram, Russell  
Johnson, Rogers  
Langley, Jane  
Moore, Benjamin  
Packard, Sherman  
Rausch, James  
Smith, Paul  
Varrell, Thomas  
Weldy, Norman Jr

Bridle, Russell  
Corbin, Corey  
Dowd, John  
Francoeur, Sheila  
Headd, James  
Introne, Robert  
Katsakiores, George  
Letourneau, Robert  
Morris, Richard  
Priestley, Anne  
Robertson, Carl  
Stone, Joseph  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Brown, Julie  
Harrington, Michael  
Newton, Clifford

Bemis, Alan  
Campbell, W Packy  
Hollinger, Jeffrey  
Scott, David

Berube, Roger  
Cataldo, Sam  
Johnson, Nancy  
Twombly, James

Bickford, David  
Easson, Timothy  
Musler, George  
Woods, Phyllis

### SULLIVAN

Harris, Sandra  
Rodeschin, Beverly

Jones, Constance

Leone, Richard

Phinizy, James

### NAYS 121 BELKNAP

None

### CARROLL

Hatch, Paul

Olimpio, J Lisbeth

Patten, Betsey

### CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

Dunn, James  
Meader, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Espiefs, Peter  
Parkhurst, Henry  
Robertson, Timothy

**COOS**

Mears, Edgar	Poulin, Richard	Pratt, Leighton	Theberge, Robert
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**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Hammond, Lee
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Bergin, Peter	Buckley, Raymond	Clemons, Jane	Cote, David
Cote, Peter	Craig, James	Dokmo, Cynthia	Gorman, Mary
Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel	Katsiantonis, Thomas
Kopka, Angeline	Kurk, Neal	Lasky, Bette	Leach, Edward
Malloy, Chris	Martin, Mary Ellen	Michon, Stephen	Movsesian, Lori
Pappas, Christopher	Pilotte, Maurice	Shaw, Barbara	Sullivan, Peter
Wheeler, Robert			

**MERRIMACK**

Anderson, Eric	Bouchard, Candace	Brueggemann, Donald	Davis, Frank
DeStefano, Stephen	French, Barbara	Gile, Mary	Hamm, Christine
Hess, David	Jacobson, Alf	Lockwood, Priscilla	Maxfield, Roy
Osborne, Jessie	Owen, Derek	Potter, Frances	Reardon, Tara
Rodd, Beth	Rush, Deanna	Seldin, Gloria	

**ROCKINGHAM**

Belanger, Ronald	Blanchard, MaryAnn	Casey, Kimberley	Clark, Vivian
Cooney, Richard	Gillick, Thomas	Gould, Kenneth	Hamel, Albert
Kelley, Jane	Langone, John	Manning, John	McEachern, Paul
Norelli, Terie	Pantelakos, Laura	Shultis, Elizabeth	Splaine, James
Winchell, George			

**STRAFFORD**

Creteau, Irene	Dunlap, Patricia	Grassie, Anne	Heon, Richard
Hofemann, Roland	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph

and the majority committee amendment was adopted.  
Rep. James Wheeler offered a floor amendment (0784h).

**Floor Amendment (0784h)**

Amend RSA 159-B:4 as inserted by section 2 of the bill by replacing it with the following:

159-B:4 Retroactivity Prohibited. No administrative rule, statute, or ordinance adopted, enacted, or proposed by the state of New Hampshire or its political subdivisions shall be applied retroactively to prohibit or limit the scope of the shooting activities previously conducted at a shooting range, which was in operation prior to the adoption, enactment, enforcement, or proposal of the administrative rule, statute, or ordinance

Rep. James Wheeler spoke in favor.

Floor amendment(0784h) was adopted.

Rep. Gillick spoke against.

Rep. James Wheeler spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question now being adoption of the majority committee report.

**YEAS 235 NAYS 110****YEAS 235****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Laffam, Robert  
Rice, Thomas  
Whalley, Michael

Allen, Janet  
Fitzgerald, James  
Lawton, David  
Russell, David

Bartlett, Gordon  
Flanders, Donald  
Nedeau, Stephen  
Thomas, John

Boyce, Laurie  
Holbrook, Robert  
Pilliod, James  
Wendelboe, Fran

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Mock, Henry

Brown, Carolyn  
Kenney, Bettie  
Stevens, Stanley

Derby, Mark  
McConkey, Mark

Dickinson, Howard  
Morrow, Harry

**CHESHIRE**

Eaton, Daniel  
Liebl, George

Fish, Douglas  
Royce, H Charles

Hunt, John  
Slack, Pamela

Laurent, John  
Smith, Edwin

**COOS**

Brady, Mark  
Tholl, John Jr

King, Frederick  
Woodward, David

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Ham, Bonnie  
Solomon, Peter

Barker, Robert  
Gilman, G Michael  
Ingretson, Paul  
Sorg, Gregory

Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie  
Williams, Burton

Dudley, Terri  
Giuda, Robert  
Naro, Debra

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brundige, Robert  
Cernota, Albert  
Coughlin, Pamela  
Elliott, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Hallyburton, Margaret  
Hinkle, Peyton  
Johnson, Lionel  
Luebker, Bernard  
McRae, Karen  
Moran, Edward  
Pappas, Marc  
Ross, Lawrence  
Souza, Kathleen  
Vaillancourt, Steve

Allan, Nelson  
Balboni, Michael  
Beaton, William  
Bruno, Pierre  
Christensen, D L Chris  
Crane, Elenore Casey  
Emerton, Larry  
Gibson, John  
Hagan, Barbara  
Hansen, Ryan  
Hopper, Gary  
L'Heureux, Robert  
Martin, Mary Ellen  
Mercer, Robert  
Mosher, William  
Pepino, Leo  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, James

Allen, Timothy  
Balcom, John  
Bergeron, Jean-Guy  
Buhlman, David  
Christiansen, Lars  
Desmarais, Vivian  
Fields, Dennis  
Gonzalez, Carlos  
Haley, Robert  
Harrington, Paul  
Infantine, William  
LaFlamme, Paul  
McElroy, Henry Jr  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Sweeney, Cynthia

Arnold, Thomas Jr  
Barry, J Gail  
Brassard, Paul  
Carter, Mark  
Clayton, William  
Dionne, Kimberley  
Fletcher, Richard  
Graham, John  
Hall, Charles  
Hawkins, Ken  
Jasper, Shawn  
Lawrence, James  
McHugh, Claire  
Mooney, Maureen  
Palangas, Eric  
Reeves, Sandra  
Slocum, Lee  
Tate, Joan

**MERRIMACK**

Anderson, Eric  
Daniels, Eric  
Fraser, Leo Jr  
Kennedy, Richard  
MacKay, James  
Oliver, James

Blanchard, Elizabeth  
DeJoie, John  
Hager, Elizabeth  
L'Heureux, Stephen  
Marple, Richard  
Reed, Dennis

Clarke, Claire  
Field, William  
Hess, David  
Langer, Ray  
McCormick, Tom  
Soltani, Tony

Currier, David  
Foley, Albert  
Kenison, Leon  
Leber, William  
Nutter, Edward

**ROCKINGHAM**

Allen, Mary  
 Bridle, Russell  
 Corbin, Corey  
 Dowd, John  
 Francoeur, Sheila  
 Headd, James  
 Introne, Robert  
 Katsakiores, George  
 Langone, John  
 McMahon, Charles  
 O'Neil, Michael  
 Quandt, Matthew  
 Smith, Donald  
 Vallone, Matthew  
 Welch, David  
 Zolla, William

Belanger, Ronald  
 Camm, Kevin  
 Dalrymple, Janeen  
 Dumaine, Dudley  
 Gilbert, Karl  
 Hughes, Daniel  
 Itse, Daniel  
 Katsakiores, Phyllis  
 Letourneau, Robert  
 Moore, Benjamin  
 Packard, Sherman  
 Rausch, James  
 Smith, Paul  
 Varrell, Thomas  
 Weldy, Norman Jr

Bicknell, Elbert  
 Carson, Sharon  
 DiFruscia, Anthony  
 Fesh, Bob  
 Gleason, John  
 Hutchinson, Karen  
 Johnson, Robert  
 Kobel, Rudolph  
 Manning, John  
 Morris, Richard  
 Priestley, Anne  
 Robertson, Carl  
 Stone, Joseph  
 Waterhouse, Kevin  
 Weyler, Kenneth

Bishop, Franklin  
 Coes, Betsy  
 Dodge, Robert  
 Flanders, John Sr  
 Griffin, Mary  
 Ingram, Russell  
 Johnson, Rogers  
 Langley, Jane  
 McKinney, Betsy  
 Noyes, Richard  
 Putnam, Ed II  
 Roessner, Kurt  
 Tufts, J Arthur  
 Weare, E Albert  
 Wiley, Robert

**STRAFFORD**

Albert, Russell  
 Brown, Julie  
 Harrington, Michael  
 Newton, Clifford

Bemis, Alan  
 Campbell, W Packy  
 Hollinger, Jeffrey  
 Scott, David

Berube, Roger  
 Cataldo, Sam  
 Johnson, Nancy  
 Twombly, James

Bickford, David  
 Easson, Timothy  
 Musler, George  
 Woods, Phyllis

**SULLIVAN**

Harris, Sandra  
 Rodeschin, Beverly

Jones, Constance

Leone, Richard

Phinizy, James

**NAYS 110****BELKNAP**

None

**CARROLL**

Olimpio, J Lisbeth

Patten, Betsey

**CHESHIRE**

Allen, Peter  
 Meader, David  
 Pratt, John  
 Weed, Charles

Dunn, James  
 Mitchell, McKim  
 Richardson, Barbara

Espiefs, Peter  
 Parkhurst, Henry  
 Robertson, Timothy

Manning, Joseph  
 Pratt, Irene  
 Tilton, Anna

**COOS**

Mears, Edgar

Poulin, Richard

Pratt, Leighton

Theberge, Robert

**GRAFTON**

Akins, Ralph  
 Cooney, Mary  
 Nordgren, Sharon

Almy, Susan  
 Densmore, Edward  
 Scovner, Nancy

Benn, Bernard  
 Diamond, Estelle  
 Sokol, Hilda

Bleyler, Ruth  
 Hammond, Lee

**HILLSBOROUGH**

Bergin, Peter  
 Cote, Peter  
 Irwin, Anne-Marie  
 Kurk, Neal  
 Michon, Stephen  
 Shaw, Barbara

Buckley, Raymond  
 Craig, James  
 Jean, Claudette  
 Lasky, Bette  
 Movsesian, Lori  
 Sullivan, Peter

Clemons, Jane  
 Dokmo, Cynthia  
 Katsiantonis, Thomas  
 Leach, Edward  
 Pappas, Christopher  
 Wheeler, Robert

Cote, David  
 Gorman, Mary  
 Kopka, Angeline  
 Malloy, Chris  
 Pilotte, Maurice

**MERRIMACK**

Bouchard, Candace	Brueggemann, Donald	Davis, Frank	DeStefano, Stephen
French, Barbara	Gile, Mary	Hamm, Christine	Jacobson, Alf
Lockwood, Priscilla	Maxfield, Roy	Osborne, Jessie	Owen, Derek
Potter, Frances	Reardon, Tara	Rodd, Beth	Rush, Deanna
Seldin, Gloria			

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberly	Clark, Vivian	Cooney, Richard
Gillick, Thomas	Gould, Kenneth	Hamel, Albert	Kelley, Jane
McEachern, Paul	Norelli, Terie	Pantelakos, Laura	Shultis, Elizabeth
Splaine, James	Winchell, George		

**STRAFFORD**

Creteau, Irene	Dunlap, Patricia	Grassie, Anne	Heon, Richard
Hofemann, Roland	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Harris, Joseph

and the majority committee report was adopted.

Ordered to third reading.

**HB 1278-FN-L**, relative to the applicable minimum wage for hourly employees. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Paul Harrington for the Majority of Labor, Industrial and Rehabilitative Services: The committee heard conflicting testimony concerning an increase in the minimum wage. There was compelling evidence that the federally mandated minimum, which applies now in New Hampshire, falls far short of what many define to be a "livable wage". In addition, the fact that recipients of the minimum wage are often recipients of financial support from a number of state welfare programs implies that taxpayers are, in effect, supporting businesses which pay minimum wage. On the other hand, many researchers, including the Federal Reserve Board, have found that an increase in the minimum wage increases unemployment and/or may result in a loss of benefits to low wage employees. In fact, if anything, there seems to be an inverse relationship between raising the minimum wage and poverty due to the effect of unemployment. Beneficiaries of an increase in the minimum wage are often teenagers from wealthy families who are not in poverty to begin with. The Employment Policy Institute estimates that only a small percentage of minimum wage recipients, 13%, were single parents with kids or single earners in a couple with kids. A state earned income tax credit is a preferable means of helping those in need, but since New Hampshire has no income tax, this is not possible. A general increase in the minimum wage at a time when the state is at the beginning of an economic recovery which some describe as jobless seems ill advised. Some argue that an increase in the minimum wage in 1990 contributed to the economic downturn which followed. Vote 10-9.

Rep. Edgar Mears for the Minority of Labor, Industrial and Rehabilitative Services: The minority believes it is time for New Hampshire to reach the minimum wage levels of the rest of the New England states; Connecticut pays \$7.10, Massachusetts pays \$6.75, Vermont pays \$6.75 and Maine pays \$6.25 and Rhode Island pay \$6.15. No opposition from the greater business community was presented at either of the two public hearings. Public testimony focused on the need to raise the wage so that people who put in their full day of work get a fair day's pay for their work. The bill came out of sub-committee without a recommendation and the minority was unable to offer the amendments to the full committee. The minority recommends ought to pass with the floor amendment to raise the New Hampshire minimum wage to \$6.00 per hour and to study the issues relative to minimum wage. This amendment simply brings the New Hampshire minimum wage closer to the rest of the New England region.

Reps. Corbin, Leach and Diamond spoke against.  
 Reps. Norelli and Soltani spoke against and yielded to questions.  
 Reps. Mock, Slocum, Adams and Newton spoke in favor.  
 Rep. Quandt requested a roll call; sufficiently seconded.  
 The question being adoption of the majority committee report.

## YEAS 173 NAYS 172

### YEAS 173

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Laflam, Robert	Lawton, David	Nedeau, Stephen	Russell, David
Thomas, John	Wendelboe, Fran	Whalley, Michael	

#### CARROLL

Babson, David Jr	Brown, Carolyn	Chandler, Gene	Derby, Mark
Dickinson, Howard	McConkey, Mark	Mock, Henry	Olimpio, J Lisbeth
Patten, Betsey	Stevens, Stanley		

#### CHESHIRE

Hunt, John	Laurent, John	Liebl, George	Royce, H Charles
Smith, Edwin			

#### COOS

Brady, Mark	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Tholl, John Jr	Woodward, David	

#### GRAFTON

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Giuda, Robert	Ingbretson, Paul
Maybeck, Margie	Sorg, Gregory	Williams, Burton	

#### HILLSBOROUGH

Adams, Jarvis	Allen, Timothy	Arnold, Thomas Jr	Balcom, John
Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy	Brundige, Robert
Bruno, Pierre	Buhlman, David	Carter, Mark	Cernota, Albert
Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Gibson, John	Hagan, Barbara
Hall, Charles	Hansen, Ryan	Harrington, Paul	Hawkins, Ken
Hinkle, Peyton	Hopper, Gary	Hunter, Bruce	Infantine, William
Jasper, Shawn	Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul
Lawrence, James	Luebker, Bernard	McElroy, Henry Jr	McHugh, Claire
McRae, Karen	Mercer, Robert	Mooney, Maureen	Moran, Edward
Mosher, William	Pappas, Marc	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Rowe, Robert	Slocum, Lee	Stepanek, Stephen
Vaillancourt, Steve	Wheeler, James		

#### MERRIMACK

Anderson, Eric	Currier, David	Fraser, Leo Jr	Hess, David
Kennedy, Richard	L'Heureux, Stephen	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Oliver, James	Reed, Dennis

#### ROCKINGHAM

Belanger, Ronald	Bicknell, Elbert	Bridle, Russell	Camm, Kevin
Carson, Sharon	Clark, Vivian	Dalrymple, Janeen	Dodge, Robert
Dowd, John	Dumaine, Dudley	Fesh, Bob	Flanders, John R



Francoeur, Sheila  
Headd, James  
Katsakiores, George  
Manning, John  
Noyes, Richard  
Rausch, James  
Stone, Joseph  
Weare, E Albert

Gilbert, Karl  
Introne, Robert  
Katsakiores, Phyllis  
McKinney, Betsy  
O'Neil, Michael  
Roessner, Kurt  
Tufts, J Arthur  
Welch, David

Gillick, Thomas  
Itse, Daniel  
Kobel, Rudolph  
McMahon, Charles  
Packard, Sherman  
Smith, Donald  
Varrell, Thomas  
Weyler, Kenneth

Griffin, Mary  
Johnson, Rogers  
Letourneau, Robert  
Morris, Richard  
Priestley, Anne  
Smith, Paul  
Waterhouse, Kevin  
Zolla, William

## STRAFFORD

Albert, Russell  
Cataldo, Sam  
Musler, George  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Bickford, David  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Hollinger, Jeffrey  
Twombly, James

## SULLIVAN

Jones, Constance

Rodeschin, Beverly

## NAYS 172

## BELKNAP

Pilliod, James

Rice, Thomas

## CARROLL

Hatch, Paul

Kenney, Bettie

Merrow, Harry

## CHESHIRE

Allen, Peter  
Fish, Douglas  
Parkhurst, Henry  
Robertson, Timothy

Dunn, James  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

Eaton, Daniel  
Meader, David  
Pratt, John  
Tilton, Anna

Espiefs, Peter  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

## COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

## GRAFTON

Akins, Ralph  
Cooney, Mary  
Ham, Bonnie  
Scovner, Nancy

Almy, Susan  
Densmore, Edward  
Hammond, Lee  
Sokol, Hilda

Benn, Bernard  
Diamond, Estelle  
Naro, Debra  
Solomon, Peter

Bleyler, Ruth  
Gionet, Edmond  
Nordgren, Sharon

## HILLSBOROUGH

Allan, Nelson  
Brassard, Paul  
Cote, David  
Desmarais, Vivian  
Gargas, Carolyn  
Greenberg, Gary  
Jean, Claudette  
Lasky, Bette  
Messier, Irene  
Palangas, Eric  
Scanlon, Michael  
Sweeney, Cynthia

Artz, Lawrence  
Buckley, Raymond  
Cote, Peter  
Dionne, Kimberley  
Gonzalez, Carlos  
Haley, Robert  
Johnson, Lionel  
Leach, Edward  
Michon, Stephen  
Pappas, Christopher  
Shaw, Barbara  
Tate, Joan

Balboni, Michael  
Clayton, William  
Craig, James  
Dokmo, Cynthia  
Gorman, Mary  
Hallyburton, Margaret  
Katsiantonis, Thomas  
Malloy, Chris  
Movsesian, Lori  
Pepino, Leo  
Souza, Kathleen  
Wheeler, Robert

Bergin, Peter  
Clemons, Jane  
Crane, Elenore Casey  
Elliott, Larry  
Graham, John  
Irwin, Anne-Marie  
Kopka, Angeline  
Martin, Mary Ellen  
O'Brien, Lori  
Pilotte, Maurice  
Sullivan, Peter

## MERRIMACK

Blanchard, Elizabeth  
Daniels, Eric  
Field, William

Bouchard, Candace  
Davis, Frank  
Foley, Albert

Brueggemann, Donald  
DeJoie, John  
French, Barbara

Clarke, Claire  
DeStefano, Stephen  
Gile, Mary

Hager, Elizabeth  
Osborne, Jessie  
Rodd, Beth

Hamm, Christine  
Owen, Derek  
Rush, Deanna

Jacobson, Alf  
Potter, Frances  
Seldin, Gloria

Kenison, Leon  
Reardon, Tara  
Soltani, Tony

### ROCKINGHAM

Allen, Mary  
Coes, Betsy  
Gleason, John  
Hutchinson, Karen  
Langley, Jane  
Pantelakos, Laura  
Shultis, Elizabeth  
Wiley, Robert

Bishop, Franklin  
Cooney, Richard  
Gould, Kenneth  
Ingram, Russell  
Langone, John  
Putnam, Ed II  
Splaine, James  
Winchell, George

Blanchard, MaryAnn  
Corbin, Corey  
Hamel, Albert  
Johnson, Robert  
McEachern, Paul  
Quandt, Matthew  
Vallone, Matthew

Casey, Kimberley  
DiFruscia, Anthony  
Hughes, Daniel  
Kelley, Jane  
Norelli, Terie  
Robertson, Carl  
Weldy, Norman Jr

### STRAFFORD

Berube, Roger  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Brown, Julie  
Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Spang, Judith

Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Leone, Richard

Cloutier, John  
Franklin, Peter  
Phinizy, James

Donovan, Thomas  
Harris, Joseph

and the majority committee report was adopted.

### **HB 1181**, relative to certain deliberative session amendment procedures in official ballot voting. **INEXPEDIENT TO LEGISLATE**

Rep. Nancy K. Johnson for Municipal and County Government: This bill would limit amendments of proposed budgets or proposed bonds, whether the municipality has voted to implement the municipal budget act or not, to no more than 10 percent of the proposed amount in an official ballot form of government (SB2). Currently if a municipality has opted to be a municipal budget town the 10 percent rule already applies. The intent of the bill was to limit the increase/decrease of amendments made during the deliberative session. The committee feels strongly that the deliberative session is where the voters in a SB2 town can and do amend the budget. Voters need to attend the deliberative session to make their wishes known. The majority of the committee agreed that there are times at a deliberative session when new information is provided that may require amendments to budget or bond articles of more than 10 percent. Vote 9-2.

Adopted.

### **HB 1256**, relative to a buddy system for firefighters. **INEXPEDIENT TO LEGISLATE**

Rep. Dudley D. Dumaine for Municipal and County Government: The original bill would have encouraged municipalities to adopt the "buddy system" of 2 firefighters in a burning building – 2 firefighters outside the burning building for all their fire departments. The testimony given emphasized that this system was already being taught at the Fire Standards and Training Academy. There was concern that this legislation could be interpreted as being an unfunded mandate. The majority concluded that government should never legislate the life and death decisions that can only be made by those qualified firefighters who respond and place their lives on the line for those of us who may be the victim of a fire. All fire fighters must be allowed to do their jobs without having to determine first if a statute is being violated because of his or her actions in an emergency situation. Vote 10-3.

Adopted.

### **HB 1375**, relative to powers of conservation commissions. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: REFER FOR INTERIM STUDY.**

Rep. David L. Buhlman for the Majority of Municipal and County Government: The local legislative body in a municipality currently can determine where and to what percentage of the land

use change tax is accounted for, either in the conservation fund or the general fund. This bill would allow for certain "qualified organizations" which are defined in section 170(h)(3) of the Internal Revenue Code and are commonly established as private land trusts. The key difference between this procedure and the way conservation commissions now acquire land is that the commissions could make donations to the private land trust without keeping any interest in, or control over, the land acquired with public money "even though benefits to private parties may result" which the committee felt may violate our Constitution. The majority of the committee felt that this revision to current law would not be in the best interest of the municipalities because it is vital that municipalities retain an interest in any land purchased with public funds. There was also concern that linking state laws to the IRS Code could result in unintended consequences because the code is complex and the state has no control over revisions made by Congress. Vote 9-6.

Rep. Nancy K. Johnson for the Minority of Municipal and County Government: This bill is important and should be referred to Interim Study. There remains a question that troubled some on the committee about the relationship between municipal expenditures and nonprofit organizations that the minority believes can be resolved. Many of our communities rely upon the expertise of land trusts to help with the conservation of town land. In some instances having land trusts hold easements on land is a practical necessity – for example when a property is located in two towns. Attorneys advising towns disagree on the interpretation of current laws and constitutional issues, leaving towns vulnerable to lawsuits. This bill, if refined, will help to eliminate ambiguities and weaknesses in the statutes and would assure that municipalities follow constitutional procedures when approving funds for such projects. The minority believes this issue should be studied further.

Majority committee report adopted.

**HB 1398-FN-L**, relative to relief and maintenance provided to certain non-residents. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David L. Buhlman for the Majority of Municipal and County Government: The practice of asking for reimbursement from one municipality by another municipality when the costs are associated with providing general welfare assistance to New Hampshire's needy is currently informally practiced by the welfare directors association's standing "gentlemen's agreement" that consists of communication and cooperation among the municipalities. Based on the testimony this agreement has been working well, except in a few cases. HB 1398 proposed to codify this agreement and to clarify the definition of "residency". The majority of the committee felt that this definition could result in a violation of the New Hampshire Constitution in Part I, Article 28-a. This definition could open the practice up to requiring the municipality of most recent residency to cover the first month's costs of a person that may not have ever requested assistance from that municipality. Vote 7-5.

Rep. Nancy K. Johnson for the Minority of Municipal and County Government: This bill was the result of a two-year study of the committee's work. Currently under RSA 165:1 municipalities have the legal obligation to provide general assistance to residents. This bill simply defines residency for the purpose of welfare assistance. The bill does not affect the obligation of a municipality to relieve and maintain non-residents but does clarify that the assisting municipality may recover from the municipality of most recent residency. In addition, the bill clarifies how the residency is determined. According to testimony, practice of recovery from municipality of residency is standard practice. The minority does not believe this is a 28-a issue.

Majority committee report adopted.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement program. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Chris S. Malloy for the Majority of Public Works and Highways: The committee, after hearing two weeks of testimony from the Department of Transportation, regional planning committees, members of town governing boards, mayors and police chiefs, submits this plan as the best plan given our funding circumstances. This bill gives first priority to bridges and roads that need it most. The committee recognizes the need to increase funding for the Ten-Year Plan if we want to continue the same level of construction we have had in the past. Included in this legislation is a study committee to address the issue of funding for the future. The regional planning agencies have been working with local officials since early 2002, developing the details for this legislation. The Department of Transportation received the plan next, and refined it for the Governor's Advisory Commission on Intermodal Transportation (GACIT). GACIT members held twenty-one hearings around the state, presenting the plan to the public for input. In December, GACIT presented

its report to the Governor. The Governor presented this report to the House in mid-January. Our committee used the GACIT report as a template and added some important projects from the Governor's plan. All of the plans had similar projects; the largest difference was the bottom line. This process is important and it involves input from local officials. The committee felt that it was important to keep the plan as close as possible to the former Ten-Year Plan for project inclusion. We are well aware that the funding is less than the project costs. In the last two-year cycle, only three of the planning agencies submitted new plans because they were aware of the funding shortfall. The committee feels that it is better to ask the planning agencies to refrain from adding new projects, as they did last year, rather than removing already listed projects. All of the planning agencies testifying agreed with this policy. The Department of Transportation testified that within four years, the Ten-Year Plan presented here would be in balance – projects to funding. This bill also amends RSA 237:2, authorizing bonding authority for the turnpikes. This is necessary to keep pace with additional costs due to time. Some of these projects have been in process for years and many will not even be completed for years to come. This authority only authorizes the issuance of bonds for projects within the Ten-Year Plan. No monies will be expended solely by RSA 237:2 because it is necessary to have a project in the Ten-Year Plan for funding. RSA 237:2 was last amended in 1998, and now, with this amendment, the bonding for the turnpikes will be able to be completed as necessary in the future. Some work will be done by the study committee established under this legislation, trying to combine RSA 237:2, RSA 228:94 and RSA 240 process in the future of the Ten-Year Plan (RSA 228:99 and RSA 240, the Ten-Year Plan). Vote 16-1..

Rep. William E. Leber for the Minority of Public Works and Highways: The biggest problem with this Ten-Year Transportation Plan is that it is not ten years. It is not realistic to expect the projects to be completed in ten years yet the projects have dates of completion of 2014 or earlier. The reality is it will be 2016 or 2018, or later for many projects in this plan to be completed. The standing joke of the Ten-Year plan is that it is 18 or 20-Year plan. Frustration by communities and our constituents when the project is not completed when scheduled is getting greater each year. We do a disservice to our citizens by adopting an exaggerated plan that we know has no chance of completion with the current, or projected funding situation. The federal aid level is a moving target and our state funds are not adequate to meet the projects in this plan. The Turnpike Fund is in trouble and cannot support many of the turnpike projects. The Highway Fund is also running lean. The committee has an opportunity to prioritize the project and present a realistic Ten-Year plan and provide a list of projects to be funded if additional funds (federal and state) become available. An honest plan will show our citizens that many projects will not make the grade without turnpike toll and road toll (gas tax) increases. Which one do you want? The project? Or an increase in tolls? Therefore, I recommend the Ten-Year plan be sent back to the committee to bring forward a realistic and honest transportation plan, for once.

### **Majority Amendment (0499h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

Amend the bill by replacing all after the enacting clause with the following:

1 State 10-Year Transportation Improvement Plan. Amend RSA 240:1 to read as follows:  
240:1 Legislative Intent.

**I.** The ~~[program]~~ *plan* is predicated on the report submitted by the governor to the legislature dated ~~[December, 2001]~~ *January 20, 2004 and on the "State of New Hampshire Ten Year Transportation Improvement Plan 2005-2014 Submitted to the Governor, Pursuant to RSA 228:99 and RSA 240 of the Laws of New Hampshire, by the Governor's Advisory Commission on Intermodal Transportation (GACIT)" which was adopted by GACIT on December 3, 2003 and is intended to serve as the guideline for transportation projects in the state for the next decade.*

**II.** *The general court understands that the revenue projected for the plan period 2005-2014 is inadequate to fund all the projects in the plan. Without additional projects, it is estimated that with revenue increases at \$5 million per year, the plan will take approximately 14 years to complete, excluding consideration of inflation on the cost of the projects. In passing this plan, it is the general court's intent to review the plan every 2 years, pursuant to RSA 228:99 and RSA 240, but not to add projects, except for emergencies, until the funding is adequate to bring the plan within a projected 10-year completion framework.*

2 Plan. Amend RSA 240:3 to read as follows:

240:3 ~~[Program]~~ *Plan.* The legislature hereby adopts the ~~[program as submitted by the governor]~~ *plan known as the "State of New Hampshire Ten Year Transportation Improvement Plan 2005-2014 Submitted by the House Public Works and Highways Committee as Part of the Legislative Process Pursuant to RSA 228:99 and RSA 240 of the Laws of New Hampshire"* and encourages expeditious implementation of the projects shown therein.

3 State Transportation Plan Funding Study Committee.

I. There is established a committee to study the adequacy of funding for the state's 10-year transportation plan to include review and recommendations pertaining to the highway fund and the turnpike fund.

II.(a) The members of the committee shall be as follows:

(1) Seven members of the house of representatives, appointed by the speaker of the house, as follows:

- (A) Three members of the public works committee
- (B) Two members of the finance committee.
- (C) One member of the ways and means committee.
- (D) One other member.

(2) Four members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall study the adequacy of funding for the state's 10-year transportation plan to include review and recommendations pertaining to the highway fund and the turnpike fund.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Six members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2004.

4 New Paragraph; Authority Granted; 10-Year Transportation Improvement Plan Projects. Amend RSA 237:2 by inserting after paragraph VIII the following new paragraph:

IX. Make such other and further improvements to the New Hampshire turnpike system as may be required by RSA 240.

5 New Hampshire Turnpike System; Funds Provided. Amend RSA 237:7, I to read as follows:

I. The following sums are appropriated for the purpose of carrying out the projects authorized by RSA 237:2:

Projects	Amounts
(a) Improvements to the Blue Star memorial highway. RSA 237:2, I, <i>IX</i> .	\$ [43,800,000] <b>55,800,000</b>
(b) Improvements and 2 lane extension of Spaulding turnpike. RSA 237:2, II.	43,200,000
(c) Improvements to central New Hampshire turnpike, RSA 237:2, III.	28,500,000
(d) Construction of Dover-Somersworth interchange number 9 of Spaulding turnpike, including the access roads into and away from the Weeks traffic circle in the city of Dover. RSA 237:2, II.	2,800,000
(e) Construction and improvements to the central New Hampshire turnpike. RSA 237:2, IV.	126,600,000
(f) Improvements to central New Hampshire turnpike. RSA 237:2, V.	24,100,000
(g) Repealed.]	
(h) Improvements to central New Hampshire turnpike. RSA 237:2, VII, <i>IX</i> .	[280,200,000] <b>485,200,000</b>
(i) Improvements to the Spaulding turnpike Gosling Road interchange, RSA 237:2, VI.	17,800,000

- |   |                             |
|---|-----------------------------|
| (j) Study of exit 10 on Spaulding turnpike,<br>RSA 237:2 II-a.  | 1,100,000                   |
| (k) Toll collection equipment. RSA 237:2, VIII, <i>IX</i>   | [15,000,000]<br>39,000,000  |
| (l) Construction of exit 10 on the Spaulding turnpike.<br>RSA 237:2, II-b, <i>IX</i> .  | [3,000,000]<br>37,000,000   |
| (m) Construction of a second barrel from exits 12 to 16 on<br>the Spaulding Turnpike with related interchange<br>improvements from exits 11 to 16. RSA 237:2, II-d, <i>IX</i> .   | [77,200,000]<br>138,200,000 |
| (n) Construction of improvements to the Spaulding<br>Turnpike/US 4/N.H. 16 north of Gosling Road<br>intersection in Newington to just south of most<br>southerly plaza in Dover, including access roads on<br>and off the highway. RSA 237:2, II-e. | 14,250,000                  |

6 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Establishes a committee to study the adequacy of funding for the state's 10-year transportation plan.

III. Grants authority to the commissioner of transportation to make improvements to the turnpike system required by the 10-year transportation plan.

IV. Changes appropriations for certain projects in the turnpike system.

Majority amendment adopted.

Rep. Edwin Smith spoke in favor.

Majority committee report adopted and ordered to third reading.

### **HB 1293**, relative to emission control equipment for certain vehicles. **OUGHT TO PASS WITH AMENDMENT**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill modifies the exemptions from the emission control equipment requirements for motor vehicles 20 years or older and provides a temporary waiver for OBD(On Board Diagnostic) II tests of 60 days if necessary to allow for repair. The Department of Safety in conjunction with the Department of Environmental Services is expanding the current emission control portion of the annual motor vehicle inspections to include OBD testing as required by the federal Environmental Protection Agency on all vehicles manufactured after 1996. New Hampshire is one of the last states to comply with these regulations. The Department of Motor Vehicles (DMV) will provide OBD II test equipment to all inspection stations and establish a network so these test results can be computerized by DMV. All equipment will be leased by DMV and an additional cost of between \$5 or \$10 will be passed on to the consumer at inspection time. Current data from other states indicate that these tests do not cause any unreasonable additional expenses on the consumer. The DMV and DES will be required to consult with the Air Advisory Committee, the Science, Technology and Energy Committee and the Senate Environmental Committee to modify the program in the future. Vote 11-0.

### **Amendment (0452h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Emission Control Equipment. Amend RSA 266:59-b, I to read as follows:

I.(a) Every motor vehicle driven on the ways of this state which is subject to inspection [~~after December 31, 1998~~] under this chapter shall be equipped with all of the emission control equipment which was part of that motor vehicle as originally equipped, and *such equipment shall* be properly connected to prevent excessive emissions. Motor vehicle inspections conducted in accordance with this chapter shall [~~visually~~] *include a visual* check for the presence and proper connection of the following equipment on vehicles so equipped:

(1) Catalytic converter.

(2) Gas cap.

(3) ~~Properly fitting fuel inlet restrictor~~ *Evaporative purge canister.*

(4) Positive crankcase ventilation (PCV) valve and properly configured hoses.

(5) Properly connected air injection pump/pulse air systems.

(b) The commissioner of the department of safety, in accordance with applicable federal laws and regulations, and in consultation with the commissioner of environmental services, may adopt rules under RSA 541-A to exempt vehicles from those requirements of this section which would require replacement of parts for which replacements cannot be reasonably obtained.

(c) The commissioner of the department of safety, subject to conditions approved in advance by the federal Environmental Protection Agency (EPA), and after public hearing and consultation with the commissioner of the department of environmental services and the air pollution advisory committee, and notification of the house science, technology, and energy committee and the senate environment committee, and with the approval of the air pollution advisory committee, may modify the vehicle emission control inspection program ~~[in any of the following manners]~~ *by substituting the exhaust gas recirculation system for one or more of the items in subparagraphs I(a)(4) and I(a)(5)*, provided that the total effect of ~~all~~ such ~~changes~~ *change* is determined to produce a net environmental improvement[~~:-~~]

~~(1) Substituting one or more of the following items for one or more of the items in subparagraphs I(a)(3), (4), or (5):~~

~~(A) Exhaust gas recirculation system.~~

~~(B) Evaporative purge canister.~~

~~(2) Exempting additional model years in addition to those exempted by paragraph IV].~~

2 Emission Control Equipment. Amend RSA 266:59-b, III to read as follows:

III. *For all model year 1996 and newer gasoline-powered and model year 1997 and newer diesel-powered* motor vehicles equipped with on-board diagnostic ~~[sensors]~~ *systems* meeting the federal ~~[Environmental Protection Agency (EPA)]~~ *EPA* OBD II standards, ~~[after the EPA has implemented OBD II emission test requirements,]~~ the commissioner, after public hearing and consultation with the commissioner of the department of environmental services and the air pollution advisory committee, and notification of the house science, technology, and energy committee and the senate environment committee, and with the approval of the air pollution advisory committee, shall adopt rules under RSA 541-A, which require every motor vehicle driven on the ways of this state which is subject to ~~[state safety]~~ *inspection under this chapter*, after a date specified by the commissioner, to be tested for OBD II indications of failures *as a component of the inspection*. To the extent allowed by EPA OBD II policy, OBD II data may be substituted for visual and functional tests required by ~~[paragraphs I and H]~~ *paragraph I*.

3 Emission Control Equipment. Amend RSA 266:59-b, IV to read as follows:

IV. This section shall not apply to vehicles ~~[manufactured prior to the 1975 model year.]~~ *20 or more model years old which shall be determined by subtracting the model year of the vehicle from the calendar year in which the inspection occurs.*

*V. If a vehicle fails the EPA OBD II test and it passes all other inspection requirements under this chapter, then it shall be issued a temporary waiver that permits its operation for 60 days from the date of issuance, in order to make required repairs. A vehicle shall be eligible for only one such waiver during its inspection cycle.*

4 Repeal. RSA 266:59-b, II, relative to oxygen sensor testing, is repealed.

5 Effective Date.

I. Section 3 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

Amendment adopted.

Report adopted and ordered to third reading.

**HB 1421-FN**, relative to solid waste incineration. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. John H. Thomas for the Majority of Science, Technology and Energy: This bill was introduced by the Hopkinton members of the Merrimack county delegation based on their concerns with the fuel change for the wood-to-energy plant located in town. The Bio-Energy Company obtained a Title V operating permit from the NH Department of Environmental Services (NH DES) which allows the company to use construction and demolition wood based products as their fuel mix. This bill as submitted would have had unintended consequences of prohibiting all incineration and

commercial fossil fuel combustion in the state. The committee held two full day public hearings and ten work sessions soliciting information and hard scientific data from state agencies. We requested and received an independent lead health based deposition study that was reviewed and approved by the NHDES. The committee reviewed a substantial amount of documentation provided by concerned Hopkinton residents and their newly formed REACH committee. We asked for and received a review by the NH Department of Health & Human Services (NHH&HS) of all assumptions and findings of various data provided to the committee. Eight draft amendments were prepared and reviewed with the final draft held as a basis for new legislation to be brought forward in January that will address all multiple concerns involving industry regulation and health based standards. The majority of the committee determined that the scope of any new regulations implemented by the legislature should address statewide environmental and health concerns rather than one specific town. There are several factors that are of concern based on our findings that need more comprehensive study, some of those being, toxic element deposition, best available control technology philosophy compared to health based philosophy, fiscal impacts, five other wood fired power plants coming into this arena in the very near future, RSA 28A issues, and many others that will have state-wide impacts. The majority is convinced that the health and safety issues are not going to be adversely affected by the new fuel mix. We have been assured by the NHDH&HS that the determinates used by DES in its issuance of the Title V permit are well below standards set by the EPA and the Center for Disease Control and Prevention. Vote 10-4.

Rep. Naida L. Kaen for the Minority of Science, Technology and Energy: The minority of the committee supports continued study of the health impacts of the incineration of construction and demolition waste, which is shipped in both from in-state and out-of-state sources. However, immediate action through this well-crafted compromise amendment is an important interim step to safeguard residents of Hopkinton before further legislation emerges from Interim Study.

Reps. Kaen, Phinizy and Pilliod spoke against.

Rep. Maxfield spoke in favor and yielded to questions.

Reps. Harrington and Thomas spoke in favor.

Rep. Kennedy requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 175 NAYS 142

### YEAS 175

#### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Thomas, John

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

Boyce, Laurie  
Laflam, Robert  
Russell, David

#### CARROLL

Brown, Carolyn  
Kenney, Bettie  
Patten, Betsey

Derby, Mark  
McConkey, Mark  
Stevens, Stanley

Dickinson, Howard  
Morrow, Harry

Hatch, Paul  
Mock, Henry

#### CHESHIRE

Fish, Douglas  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

Liebl, George

#### COOS

Brady, Mark  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

Stohl, Eric

#### GRAFTON

Alger, John  
Gilman, G Michael  
Ingbertson, Paul

Dorsett, Andrew  
Gionet, Edmond  
Maybeck, Margie

Dudley, Terri  
Giuda, Robert  
Sorg, Gregory

Eaton, Stephanie  
Ham, Bonnie  
Williams, Burton



**HILLSBOROUGH**

Adams, Jarvis	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Balcom, John	Batula, Peter	Bergeron, Jean-Guy	Brundige, Robert
Bruno, Pierre	Buhman, David	Carter, Mark	Cernota, Albert
Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey
Desmarais, Vivian	Dokmo, Cynthia	Fields, Dennis	Fletcher, Richard
Gargas, Carolyn	Graham, John	Hall, Charles	Hallyburton, Margaret
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Hinkle, Peyton
Hunter, Bruce	Infantine, William	Jasper, Shawn	Lawrence, James
Luebker, Bernard	McElroy, Henry Jr	McRae, Karen	Mercer, Robert
Moran, Edward	Mosher, William	Pappas, Marc	Reeves, Sandra
Ross, Lawrence	Rowe, Robert	Shaw, Barbara	Slocum, Lee
Souza, Kathleen	Stepanek, Stephen	Tate, Joan	Wheeler, James

**MERRIMACK**

Field, William	Hess, David	Jacobson, Alf	Kenison, Leon
Langer, Ray	Leber, William	Lockwood, Priscilla	MacKay, James
Marple, Richard	Maxfield, Roy	McCormick, Tom	Nutter, Edward
Oliver, James	Reed, Dennis		

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Camm, Kevin
Carson, Sharon	Clark, Vivian	Cooney, Richard	Corbin, Corey
Dalrymple, Janeen	Dodge, Robert	Dowd, John	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Francoeur, Sheila	Gilbert, Karl
Gillick, Thomas	Gleason, John	Griffin, Mary	Hamel, Albert
Headd, James	Ingram, Russell	Introne, Robert	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Manning, John
McKinney, Betsy	Morris, Richard	Noyes, Richard	O'Neil, Michael
Packard, Sherman	Priestley, Anne	Rausch, James	Robertson, Carl
Roessner, Kurt	Smith, Donald	Smith, Paul	Stone, Joseph
Tufts, J Arthur	Waterhouse, Kevin	Weare, E Albert	Welch, David
Weyler, Kenneth	Zolla, William		

**STRAFFORD**

Albert, Russell	Bemis, Alan	Bickford, David	Campbell, W Packy
Cataldo, Sam	Easson, Timothy	Harrington, Michael	Hollinger, Jeffrey
Newton, Clifford	Scott, David	Twombly, James	Woods, Phyllis

**SULLIVAN**

Flint, Gordon Sr	Rodeschin, Beverly
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**NAYS 142****BELKNAP**

Pilliod, James

**CARROLL**

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Meader, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Richardson, Barbara	Robertson, Timothy	Slack, Pamela	Tilton, Anna
Weed, Charles			

**COOS**

King, Frederick	Mears, Edgar	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Hammond, Lee	Naro, Debra
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Allan, Nelson	Allen, Timothy	Bergin, Peter	Brassard, Paul
Buckley, Raymond	Clayton, William	Clemons, Jane	Cote, David
Cote, Peter	Craig, James	Dionne, Kimberley	Elliott, Larry
Emerton, Larry	Gibson, John	Gorman, Mary	Hagan, Barbara
Hopper, Gary	Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel
Katsiantonis, Thomas	Kopka, Angeline	Kurk, Neal	LaFlamme, Paul
Lasky, Bette	Leach, Edward	Malloy, Chris	Martin, Mary Ellen
McHugh, Claire	Mooney, Maureen	Movsesian, Lori	O'Brien, Lori
Pappas, Christopher	Pepino, Leo	Pilotte, Maurice	Price, Pamela
Scanlon, Michael	Sullivan, Peter	Sweeney, Cynthia	Vaillancourt, Steve
Wheeler, Robert			

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Currier, David	Davis, Frank	DeJoie, John
DeStefano, Stephen	Foley, Albert	Fraser, Leo Jr	French, Barbara
Gile, Mary	Hager, Elizabeth	Hamm, Christine	Kennedy, Richard
Osborne, Jessie	Owen, Derek	Potter, Frances	Reardon, Tara
Rodd, Beth	Rush, Deanna	Seldin, Gloria	Soltani, Tony

**ROCKINGHAM**

Bishop, Franklin	Blanchard, MaryAnn	Casey, Kimberley	Coes, Betsy
DiFruscia, Anthony	Gould, Kenneth	Hughes, Daniel	McEachern, Paul
Pantelakos, Laura	Putnam, Ed II	Quandt, Matthew	Shultis, Elizabeth
Splaine, James	Vallone, Matthew	Weldy, Norman Jr	Wiley, Robert
Winchell, George			

**STRAFFORD**

Berube, Roger	Brown, Julie	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Knowles, William	Miller, Joseph	Rollo, Deanna
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Franklin, Peter	Harris, Joseph	Harris, Sandra
Jones, Constance	Leone, Richard	Phinizz, James	

and the majority committee report was adopted.

Rep. Itse declared a conflict of interest and did not participate.

**RECONSIDERATION**

Having voted with the prevailing side, Rep. Francoeur moved that the House reconsider its action whereby it voted **HB 1278-FN-L**, relative to the applicable minimum wage for hourly employees, Inexpedient to Legislate.

Rep. Francoeur spoke against.

Rep. Whalley requested a roll call; sufficiently seconded.

The question being reconsideration of action taken.

**YEAS 146 NAYS 172**

**YEAS 146**

**BELKNAP**

Pilliod, James

**CARROLL**

Hatch, Paul

Merrow, Harry

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Pratt, Irene  
Tilton, Anna

, Dunn, James  
Meader, David  
Richardson, Barbara  
Weed, Charles

Eaton, Daniel  
Mitchell, McKim  
Robertson, Timothy

Espiefs, Peter  
Parkhurst, Henry  
Slack, Pamela

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Hammond, Lee  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

Bleyler, Ruth  
Gionet, Edmond  
Scovner, Nancy

Cooney, Mary  
Ham, Bonnie  
Sokol, Hilda

**HILLSBOROUGH**

Balboni, Michael  
Buckley, Raymond  
Cote, Peter  
Dionne, Kimberley  
Gibson, John  
Jean, Claudette  
Lasky, Bette  
Movsesian, Lori  
Pilotte, Maurice  
Sweeney, Cynthia

Bergeron, Jean-Guy  
Clayton, William  
Craig, James  
Dokmo, Cynthia  
Gorman, Mary  
Johnson, Lionel  
Leach, Edward  
O'Brien, Lori  
Scanlon, Michael

Bergin, Peter  
Clemons, Jane  
Crane, Elenore Casey  
Elliott, Larry  
Hallyburton, Margaret  
Katsiantonis, Thomas  
Malloy, Chris  
Pappas, Christopher  
Shaw, Barbara

Brassard, Paul  
Cote, David  
Desmarais, Vivian  
Gargasch, Carolyn  
Irwin, Anne-Marie  
Kopka, Angeline  
Martin, Mary Ellen  
Pepino, Leo  
Sullivan, Peter

**MERRIMACK**

Blanchard, Elizabeth  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
Reardon, Tara  
Soltani, Tony

Bouchard, Candace  
DeJoie, John  
Gile, Mary  
Osborne, Jessie  
Rodd, Beth

Brueggemann, Donald  
DeStefano, Stephen  
Hager, Elizabeth  
Owen, Derek  
Rush, Deanna

Clarke, Claire  
Foley, Albert  
Hamm, Christine  
Potter, Frances  
Seldin, Gloria

**ROCKINGHAM**

Allen, Mary  
Coes, Betsy  
Gleason, John  
Ingram, Russell  
Norelli, Terie  
Robertson, Carl  
Weldy, Norman Jr

Bishop, Franklin  
Cooney, Richard  
Gould, Kenneth  
Langley, Jane  
Pantelakos, Laura  
Shultis, Elizabeth  
Winchell, George

Blanchard, MaryAnn  
Corbin, Corey  
Hamel, Albert  
Langone, John  
Putnam, Ed II  
Splaine, James

Casey, Kimberley  
DiFrancia, Anthony  
Hughes, Daniel  
McEachern, Paul  
Quandt, Matthew  
Vallone, Matthew

**STRAFFORD**

Berube, Roger  
Grassie, Anne  
Keans, Sandra  
Rollo, Deanna  
Spang, Judith

Brown, Julie  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Taylor, Kathleen

Creteau, Irene  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Wall, Janet

Dunlap, Patricia  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Harris, Sandra

Burling, Peter  
Flint, Gordon Sr  
Phiniza, James

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Harris, Joseph

**NAYS 172****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Thomas, John

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

Boyce, Laurie  
Lafam, Robert  
Russell, David

**CARROLL**

Brown, Carolyn  
McConkey, Mark  
Stevens, Stanley

Derby, Mark  
Mock, Henry

Dickinson, Howard  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Hunt, John  
Smith, Edwin

Laurent, John

Liebl, George

Royce, H Charles

**COOS**

Brady, Mark  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

**GRAFTON**

Alger, John  
Gilman, G Michael  
Naro, Debra

Dorsett, Andrew  
Giuda, Robert  
Sorg, Gregory

Dudley, Terri  
Ingbretson, Paul  
Williams, Burton

Eaton, Stephanie  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Bruno, Pierre  
Christensen, D L Chris  
Fields, Dennis  
Hall, Charles  
Hinkle, Peyton  
Jasper, Shawn  
Luebker, Bernard  
Mercer, Robert  
Pappas, Marc  
Rowe, Robert  
Tate, Joan

Allan, Nelson  
Balcom, John  
Buhlman, David  
Christiansen, Lars  
Fletcher, Richard  
Hansen, Ryan  
Hopper, Gary  
Kurk, Neal  
McElroy, Henry Jr  
Mooney, Maureen  
Price, Pamela  
Slocum, Lee  
Vaillancourt, Steve

Allen, Timothy  
Batula, Peter  
Carter, Mark  
Coughlin, Pamela  
Graham, John  
Harrington, Paul  
Hunter, Bruce  
LaFlamme, Paul  
McHugh, Claire  
Moran, Edward  
Reeves, Sandra  
Souza, Kathleen  
Wheeler, James

Arnold, Thomas Jr  
Brundige, Robert  
Cernota, Albert  
Emerton, Larry  
Hagan, Barbara  
Hawkins, Ken  
Infantine, William  
Lawrence, James  
McRae, Karen  
Mosher, William  
Ross, Lawrence  
Stepanek, Stephen  
Wheeler, Robert

**MERRIMACK**

Anderson, Eric  
Hess, David  
Leber, William  
Maxfield, Roy  
Reed, Dennis

Currier, David  
Kenison, Leon  
Lockwood, Priscilla  
McCormick, Tom

Field, William  
Kennedy, Richard  
MacKay, James  
Nutter, Edward

Fraser, Leo Jr  
Langer, Ray  
Marple, Richard  
Oliver, James

**ROCKINGHAM**

Belanger, Ronald  
Clark, Vivian  
Dumaine, Dudley  
Gilbert, Karl  
Introne, Robert  
Katsakiores, George  
Manning, John  
O'Neil, Michael  
Roessner, Kurt  
Tufts, J Arthur  
Weyler, Kenneth

Bicknell, Elbert  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Itse, Daniel  
Katsakiores, Phyllis  
McKinney, Betsy  
Packard, Sherman  
Smith, Donald  
Waterhouse, Kevin  
Wiley, Robert

Camm, Kevin  
Dodge, Robert  
Flanders, John Sr  
Griffin, Mary  
Johnson, Robert  
Kobel, Rudolph  
Morris, Richard  
Priestley, Anne  
Smith, Paul  
Weare, E Albert  
Zolla, William

Carson, Sharon  
Dowd, John  
Francoeur, Sheila  
Headd, James  
Johnson, Rogers  
Letourneau, Robert  
Noyes, Richard  
Rausch, James  
Stone, Joseph  
Welch, David

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Newton, Clifford

Bemis, Alan  
Easson, Timothy  
Scott, David

Bickford, David  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Hollinger, Jeffrey  
Woods, Phyllis

**SULLIVAN**

Rodeschin, Beverly  
and reconsideration failed.

**HCR 22**, urging Congress to withdraw the United States from the United Nations. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Timothy E. Easson for the Majority of State-Federal Relations and Veterans Affairs: Recently, the United Nations has lost credibility. The United Nation has many members that are hostile to the United States and seek to prevent us from protecting our national interests, while demanding significant financial and military resources from the United States. Their recent unwillingness to act in Operation Iraqi Freedom is the most recent glaring evidence of their desire to exert power over the United States, without respect to national sovereignty. The majority of the committee supports this resolution so that the problems with the United Nations can be scrutinized and corrected. Vote 8-6.

Rep. Peter M. Sullivan for the Minority of State-Federal Relations and Veterans Affairs: The minority believes in an energetic leadership role for the United States in the international arena. To effectively provide such leadership the United States must be vigorously engaged in the world community. The challenges facing our nation in the years ahead –terrorism, public health, nuclear proliferation, human rights, and the promotion of democracy- can not be met by a policy of isolationism and unilateralism. By working through institutions such as the UN and NATO, the United States can more effectively move towards achieving our security goals and demonstrating America's best values to the world community.

**MOTION TO LAY ON THE TABLE**

Rep. Waterhouse moved that **HCR 22**, urging Congress to withdraw the United States from the United Nations, be laid on the table.

Rep. Gibson requested a roll call; sufficiently seconded.

The question being adoption of the motion to lay HCR 22 on the table.

**YEAS 144 NAYS 170**

**YEAS 144****BELKNAP**

Allen, Janet  
Holbrook, Robert  
Thomas, John

Bartlett, Gordon  
Laflam, Robert  
Whalley, Michael

Clark, Charles  
Pilliod, James

Fitzgerald, James  
Russell, David

**CARROLL**

Brown, Carolyn  
Morrow, Harry

Dickinson, Howard  
Olimpio, J Lisbeth

Hatch, Paul  
Patten, Betsey

McConkey, Mark  
Stevens, Stanley

**CHESHIRE**

Fish, Douglas  
Royce, H Charles

Hunt, John  
Slack, Pamela

Laurent, John  
Smith, Edwin

Liebl, George  
Tilton, Anna

**COOS**

King, Frederick  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

Richardson, Herbert

**GRAFTON**

Dorsett, Andrew  
Williams, Burton

Dudley, Terri

Eaton, Stephanie

Naro, Debra

**HILLSBOROUGH**

Allan, Nelson  
 Brundige, Robert  
 Dionne, Kimberley  
 Fletcher, Richard  
 Hunter, Bruce  
 Katsiantonis, Thomas  
 Malloy, Chris  
 O'Brien, Lori  
 Price, Pamela  
 Vaillancourt, Steve

Arnold, Thomas Jr  
 Carter, Mark  
 Dokmo, Cynthia  
 Gargas, Carolyn  
 Jasper, Shawn  
 Kurk, Neal  
 McRae, Karen  
 Pappas, Christopher  
 Reeves, Sandra  
 Wheeler, Robert

Balcom, John  
 Christensen, D L Chris  
 Elliott, Larry  
 Graham, John  
 Jean, Claudette  
 LaFlamme, Paul  
 Moran, Edward  
 Pappas, Marc  
 Ross, Lawrence

Bergin, Peter  
 Coughlin, Pamela  
 Emerton, Larry  
 Hallyburton, Margaret  
 Johnson, Lionel  
 Leach, Edward  
 Mosher, William  
 Pepino, Leo  
 Rowe, Robert

**MERRIMACK**

Anderson, Eric  
 Currier, David  
 Gile, Mary  
 Leber, William  
 Oliver, James

Blanchard, Elizabeth  
 DeJoie, John  
 Hager, Elizabeth  
 Lockwood, Priscilla  
 Reed, Dennis

Bouchard, Candace  
 DeStefano, Stephen  
 Hess, David  
 MacKay, James

Clarke, Claire  
 Fraser, Leo Jr  
 Kenison, Leon  
 McCormick, Tom

**ROCKINGHAM**

Belanger, Ronald  
 Corbin, Corey  
 Francoeur, Sheila  
 Griffin, Mary  
 Katsakiores, George  
 McKinney, Betsy  
 Rausch, James  
 Stone, Joseph  
 Winchell, George

Carson, Sharon  
 Dalrymple, Janeen  
 Gillick, Thomas  
 Ingram, Russell  
 Katsakiores, Phyllis  
 Noyes, Richard  
 Robertson, Carl  
 Vallone, Matthew  
 Zolla, William

Clark, Vivian  
 Dodge, Robert  
 Gleason, John  
 Johnson, Robert  
 Kobel, Rudolph  
 O'Neil, Michael  
 Roessner, Kurt  
 Waterhouse, Kevin

Coes, Betsy  
 Fesh, Bob  
 Gould, Kenneth  
 Johnson, Rogers  
 Letourneau, Robert  
 Putnam, Ed II  
 Smith, Paul  
 Weare, E Albert

**STRAFFORD**

Bemis, Alan  
 Johnson, Nancy  
 Spang, Judith

Berube, Roger  
 Keans, Sandra  
 Twombly, James

Brown, Julie  
 Pelletier, Arthur

Dunlap, Patricia  
 Schmidt, Peter

**SULLIVAN**

Ferland, Brenda  
 Phinizy, James

Flint, Gordon Sr  
 Rodeschin, Beverly

Harris, Joseph

Harris, Sandra

**NAYS 170****BELKNAP**

Ahern, Omer Jr  
 Rice, Thomas

Boyce, Laurie  
 Wendelboe, Fran

Lawton, David

Nedeau, Stephen

**CARROLL**

Derby, Mark

Kenney, Bettie

Mock, Henry

**CHESHIRE**

Allen, Peter  
 Meader, David  
 Richardson, Barbara

Dunn, James  
 Mitchell, McKim  
 Robertson, Timothy

Eaton, Daniel  
 Parkhurst, Henry  
 Weed, Charles

Espiefs, Peter  
 Pratt, Irene

**COOS**

Brady, Mark

Mears, Edgar

Woodward, David

**GRAFTON**

Alger, John  
 Cooney, Mary  
 Gionet, Edmond  
 Ingbreton, Paul  
 Sokol, Hilda

Almy, Susan  
 Densmore, Edward  
 Giuda, Robert  
 Maybeck, Margie  
 Solomon, Peter

Benn, Bernard  
 Diamond, Estelle  
 Ham, Bonnie  
 Nordgren, Sharon  
 Sorg, Gregory

Bleyler, Ruth  
 Gilman, G Michael  
 Hammond, Lee  
 Scovner, Nancy

**HILLSBOROUGH**

Adams, Jarvis  
 Batula, Peter  
 Buckley, Raymond  
 Clayton, William  
 Craig, James  
 Gibson, John  
 Hansen, Ryan  
 Hopper, Gary  
 Lasky, Bette  
 McElroy, Henry Jr  
 Movsesian, Lori  
 Slocum, Lee  
 Sweeney, Cynthia

Allen, Timothy  
 Bergeron, Jean-Guy  
 Buhlman, David  
 Clemons, Jane  
 Crane, Elenore Casey  
 Gorman, Mary  
 Harrington, Paul  
 Infantine, William  
 Lawrence, James  
 McHugh, Claire  
 Pilote, Maurice  
 Souza, Kathleen  
 Tate, Joan

Artz, Lawrence  
 Brassard, Paul  
 Cernota, Albert  
 Cote, David  
 Desmarais, Vivian  
 Hagan, Barbara  
 Hawkins, Ken  
 Irwin, Anne-Marie  
 Luebker, Bernard  
 Mercer, Robert  
 Scanlon, Michael  
 Stepanek, Stephen  
 Wheeler, James

Balboni, Michael  
 Bruno, Pierre  
 Christiansen, Lars  
 Cote, Peter  
 Fields, Dennis  
 Hall, Charles  
 Hinkle, Peyton  
 Kopka, Angeline  
 Martin, Mary Ellen  
 Mooney, Maureen  
 Shaw, Barbara  
 Sullivan, Peter

**MERRIMACK**

Brueggemann, Donald  
 French, Barbara  
 Langer, Ray  
 Owen, Derek  
 Rush, Deanna

Davis, Frank  
 Hamm, Christine  
 Marple, Richard  
 Potter, Frances  
 Seldin, Gloria

Field, William  
 Jacobson, Alf  
 Maxfield, Roy  
 Reardon, Tara

Foley, Albert  
 Kennedy, Richard  
 Nutter, Edward  
 Rodd, Beth

**ROCKINGHAM**

Allen, Mary  
 Casey, Kimberley  
 Dumaine, Dudley  
 Headd, James  
 Langley, Jane  
 Morris, Richard  
 Priestley, Anne  
 Splaine, James  
 Weyler, Kenneth

Bicknell, Elbert  
 Cooney, Richard  
 Flanders, John Sr  
 Hughes, Daniel  
 Langone, John  
 Norelli, Terie  
 Quandt, Matthew  
 Tufts, J Arthur  
 Wiley, Robert

Bishop, Franklin  
 DiFruscia, Anthony  
 Gilbert, Karl  
 Introne, Robert  
 Manning, John  
 Packard, Sherman  
 Shultis, Elizabeth  
 Welch, David

Camm, Kevin  
 Dowd, John  
 Hamel, Albert  
 Itse, Daniel  
 McEachern, Paul  
 Pantelakos, Laura  
 Smith, Donald  
 Weldy, Norman Jr

**STRAFFORD**

Albert, Russell  
 Creteau, Irene  
 Hollinger, Jeffrey  
 Newton, Clifford  
 Smith, Marjorie

Bickford, David  
 Easson, Timothy  
 Kaen, Naida  
 Rollo, Deanna  
 Taylor, Kathleen

Campbell, W Packy  
 Harrington, Michael  
 Knowles, William  
 Rous, Emma  
 Wall, Janet

Cataldo, Sam  
 Hofemann, Roland  
 Miller, Joseph  
 Scott, David  
 Woods, Phyllis

**SULLIVAN**

Allison, David  
 Franklin, Peter

Burling, Peter

Cloutier, John

Donovan, Thomas

and the motion to lay HCR 22 on the table failed.  
 The question now being adoption of the majority committee report.  
 Reps. Peter Sullivan, Jacobson and Fields spoke against.  
 Rep. McElroy spoke in favor and yielded to questions.  
 Reps. Buhlman and Hawkins spoke in favor.  
 Rep. Buckley requested a roll call; sufficiently seconded.  
 The question being adoption of the majority committee report.

**YEAS 116 NAYS 185****YEAS 116  
BELKNAP**

Ahern, Omer Jr  
 Lawton, David  
 Thomas, John

Bartlett, Gordon  
 Nedeau, Stephen  
 Wendelboe, Fran

Boyce, Laurie  
 Rice, Thomas

Lafiam, Robert  
 Russell, David

**CARROLL**

Brown, Carolyn  
Mock, Henry

Kenney, Bettie  
Patten, Betsey

McConkey, Mark

Merrow, Harry

**CHESHIRE**

Laurent, John

**COOS**

Richardson, Herbert

Stohl, Eric

Tholl, John Jr

Woodward, David

**GRAFTON**

Dorsett, Andrew  
Giuda, Robert

Dudley, Terri  
Ingbreton, Paul

Gilman, G Michael  
Maybeck, Margie

Gionet, Edmond  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Batula, Peter  
Bruno, Pierre  
Crane, Elenore Casey  
Gibson, John  
Hawkins, Ken  
Jasper, Shawn  
McHugh, Claire  
Reeves, Sandra  
Wheeler, James

Allen, Timothy  
Bergeron, Jean-Guy  
Buhlman, David  
Desmarais, Vivian  
Hagan, Barbara  
Hinkle, Peyton  
Lawrence, James  
McRae, Karen  
Ross, Lawrence

Artz, Lawrence  
Brassard, Paul  
Cernota, Albert  
Elliott, Larry  
Hansen, Ryan  
Hopper, Gary  
Luebkert, Bernard  
Mercer, Robert  
Slocum, Lee

Balboni, Michael  
Brundige, Robert  
Christiansen, Lars  
Fletcher, Richard  
Harrington, Paul  
Hunter, Bruce  
McElroy, Henry Jr  
Mosher, William  
Souza, Kathleen

**MERRIMACK**

Field, William  
Marple, Richard

Foley, Albert  
Nutter, Edward

Kennedy, Richard

Langer, Ray

**ROCKINGHAM**

Allen, Mary  
Camm, Kevin  
Fesh, Bob  
Introne, Robert  
Kobel, Rudolph  
Morris, Richard  
Smith, Paul  
Weldy, Norman Jr

Belanger, Ronald  
Clark, Vivian  
Flanders, John Sr  
Itse, Daniel  
Langone, John  
Priestley, Anne  
Tufts, J Arthur  
Weyler, Kenneth

Bicknell, Elbert  
Dowd, John  
Griffin, Mary  
Katsakiores, George  
Letourneau, Robert  
Quandt, Matthew  
Weare, E Albert  
Wiley, Robert

Bishop, Franklin  
Dumaine, Dudley  
Headd, James  
Katsakiores, Phyllis  
Manning, John  
Smith, Donald  
Welch, David  
Zolla, William

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Newton, Clifford

Bemis, Alan  
Easson, Timothy  
Scott, David

Bickford, David  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Hollinger, Jeffrey  
Woods, Phyllis

**SULLIVAN**

None

**NAYS 185****BELKNAP**

Allen, Janet  
Whalley, Michael

Clark, Charles

Fitzgerald, James

Pilliod, James

**CARROLL**

Derby, Mark  
Stevens, Stanley

Dickinson, Howard

Hatch, Paul

Olimpio, J Lisbeth



**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Mitchell, McKim  
Robertson, Timothy  
Weed, Charles

Dunn, James  
Hunt, John  
Parkhurst, Henry  
Royce, H Charles

Eaton, Daniel  
Liebl, George  
Pratt, Irene  
Smith, Edwin

Espiefs, Peter  
Meader, David  
Richardson, Barbara  
Tilton, Anna

**COOS**

Brady, Mark  
Pratt, Leighton

King, Frederick  
Theberge, Robert

Mears, Edgar

Poulin, Richard

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Hammond, Lee  
Sokol, Hilda

Benn, Bernard  
Diamond, Estelle  
Naro, Debra  
Solomon, Peter

Bleyler, Ruth  
Eaton, Stephanie  
Nordgren, Sharon  
Williams, Burton

Cooney, Mary  
Ham, Bonnie  
Scovner, Nancy

**HILLSBOROUGH**

Allan, Nelson  
Buckley, Raymond  
Clemons, Jane  
Craig, James  
Fields, Dennis  
Hallyburton, Margaret  
Johnson, Lionel  
LaFlamme, Paul  
Martin, Mary Ellen  
Pappas, Christopher  
Price, Pamela  
Sullivan, Peter  
Wheeler, Robert

Arnold, Thomas Jr  
Carter, Mark  
Cote, David  
Dionne, Kimberley  
Gargas, Carolyn  
Infantine, William  
Katsiantonis, Thomas  
Lasky, Bette  
Mooney, Maureen  
Pappas, Marc  
Rowe, Robert  
Sweeney, Cynthia

Balcom, John  
Christensen, D L Chris  
Cote, Peter  
Dokmo, Cynthia  
Gorman, Mary  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Movsesian, Lori  
Pepino, Leo  
Shaw, Barbara  
Tate, Joan

Bergin, Peter  
Clayton, William  
Coughlin, Pamela  
Emerton, Larry  
Graham, John  
Jean, Claudette  
Kurk, Neal  
Malloy, Chris  
O'Brien, Lori  
Pilotte, Maurice  
Stepanek, Stephen  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
McCormick, Tom  
Rodd, Beth

Blanchard, Elizabeth  
Currier, David  
Fraser, Leo Jr  
Hamm, Christine  
Leber, William  
Oliver, James  
Rush, Deanna

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
Potter, Frances  
Seldin, Gloria

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Reed, Dennis

**ROCKINGHAM**

Carson, Sharon  
DiFruscia, Anthony  
Gleason, John  
Ingram, Russell  
McEachern, Paul  
Packard, Sherman  
Robertson, Carl  
Stone, Joseph

Casey, Kimberley  
Dodge, Robert  
Gould, Kenneth  
Johnson, Robert  
McKinney, Betsy  
Pantelakos, Laura  
Roessner, Kurt  
Vallone, Matthew

Coes, Betsy  
Francoeur, Sheila  
Hamel, Albert  
Johnson, Rogers  
Norelli, Terie  
Putnam, Ed II  
Shultis, Elizabeth  
Waterhouse, Kevin

Dalrymple, Janeen  
Gillick, Thomas  
Hughes, Daniel  
Langley, Jane  
O'Neil, Michael  
Rausch, James  
Splaine, James  
Winchell, George

**STRAFFORD**

Berube, Roger  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Taylor, Kathleen

Brown, Julie  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Wall, Janet

Creteau, Irene  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie

Dunlap, Patricia  
Keans, Sandra  
Rollo, Deanna  
Spang, Judith

**SULLIVAN**

Allison, David  
 Ferland, Brenda  
 Harris, Sandra

Burling, Peter  
 Flint, Gordon Sr  
 Phinizy, James

Cloutier, John  
 Franklin, Peter  
 Rodeschin, Beverly

Donovan, Thomas  
 Harris, Joseph

and the majority committee report failed.

Rep. Peter Sullivan moved Inexpedient to Legislate.

Adopted.

**WITHOUT OBJECTION****SPECIAL ORDER**

Without objection, the Speaker ordered the bills removed from today's Consent Calendar be made Special Orders on Wednesday, March 17, 2004 in the Regular Calendar order.

**RESOLUTION**

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, March 17, 2004 at 10:00 a.m.

Adopted.

**LATE SESSION****Third reading and final passage**

**HB 1130**, relative to certain insurance agents.

**HB 1133**, relative to disclosures required prior to a condominium sale.

**HB 1161**, relative to solicitation and marketing of insurance products.

**HB 1210**, relative to self-service storage facility liens.

**HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

**HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information.

**HB 1374**, relative to lightning protection systems.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board.

**SB 519**, establishing a committee to study the establishment of a farm viability program.

**HB 1422**, relative to qualifications for persons who negotiate on behalf of the state.

**HB 369**, relative to the Henniker and Hillsborough district courts.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants programs.

**HB 1266**, relative to the long-term care ombudsman.

**HB 1426-FN**, relative to testing for the human immunodeficiency virus.

**HB 1228**, relative to changes to the uniform fine schedule.

**HB 1302**, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces.

**HB 1417**, relative to examination of persons called as jurors in civil cases.

**HB 1335-L**, establishing a commission to examine the workers' compensation system in New Hampshire.

**HB 1172-L**, relative to compensation of county convention members for county business.

**HB 1301**, relative to extensions to the intent to cut.

**HB 1131**, establishing a committee to study exotic aquatic weeds and species.

**HB 1136**, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.

**HB 1138**, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

**SB 496**, relative to the definition of snow traveling vehicle.

**HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

**HB 1372**, defining certain terms relating to military service.

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

**HB 1224**, establishing the Uniform Trust Code in New Hampshire.

**HB 1134**, relative to appointment of the chief justice of the supreme court.

**HB 1295**, relative to certain court records.

**HB 1309**, relative to noise pollution from shooting ranges.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

**HB 1293**, relative to emission control equipment for certain vehicles.

### ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 465.

Rep. Currier, Sen. D'Allesandro for the Committee

### SUSPENSION OF RULES

Reps. Hess and Burling moved that the Rules be so far suspended as to allow late reporting from committee and consideration after the deadline of **HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

Adopted by the necessary two-thirds.

(Rep. Whalley in the Chair)

### UNANIMOUS CONSENT

Reps. Rodeschin, Burling and Sandra Harris addressed the House.

### RECONSIDERATION

Having voted with the prevailing side, Rep. Hager moved that the House reconsider its action whereby it voted **HB 1177-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics, Inexpedient to Legislate.

Rep. Hager spoke against.

Rep. Wendelboe spoke in favor and yielded to questions.

On a division vote, 110 members having voted in the affirmative and 177 in the negative, the reconsideration failed.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 4:55 p.m.

### RECESS

(Rep. O'Neil in the Chair)

### RESOLUTION

Rep. Dodge offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 333, 335, 347, 356, 361, 368, 370, 371, 382, 384, 386, 392,

399, 406, 408, 413, 419, 429, 434, 438, 442, 443, 452, 453, 455, 490, 504, 508, 517, 525 and 531 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

## INTRODUCTION OF SENATE BILLS

### First, second reading and referral

**SB 333-FN**, establishing a unique pupil identification system. (Education)

**SB 335**, relative to access to birth records. (Children and Family Law)

**SB 347-FN**, relative to financial responsibility and conduct after an OHRV accident. (Criminal Justice and Public Safety)

**SB 356**, relative to the powers and duties of the community development finance authority. (Executive Departments and Administration)

**SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records. (Ways and Means)

**SB 368**, relative to reinsurance. (Commerce)

**SB 370**, relative to the insurance rating law. (Commerce)

**SB 371**, relative to certain technical changes in the insurance laws. (Commerce)

**SB 382-FN-L**, relative to medical service rates for state prisoners. (Finance)

**SB 384-FN**, relative to drugs paid for by the state. (Health, Human Services and Elderly Affairs)

**SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem. (Criminal Justice and Public Safety)

**SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older. (Criminal Justice and Public Safety)

**SB 399-FN**, relative to the sale of animals. (Ways and Means)

**SB 406**, relative to adoption procedures. (Children and Family Law)

**SB 408**, relative to a civil liability exemption for claims resulting from weight gain and obesity. (Judiciary)

**SB 413-FN**, relative to financing federally aided highway projects. (Public Works and Highways)

**SB 419**, relative to the use of standardized health statements and relative to renewals of certain policies. (Commerce)

**SB 429**, relative to state and municipal contracting practices for public works. (Public Works and Highways)

**SB 434**, relative to importing prescription drugs from Canada. (Executive Departments and Administration)

**SB 438**, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities. (Health, Human Services and Elderly Affairs)

**SB 442**, relative to manufactured housing installation standards. (Commerce)

**SB 443**, relative to rural electric cooperatives. (Science, Technology and Energy)

**SB 452**, relative to testimony of expert witnesses. (Judiciary)

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state. (Ways and Means)

**SB 455**, removing the requirement that district courts be open on Saturdays for arraignments. (Judiciary)

**SB 490-FN**, relative to the Help America Vote Act. (Election Law)

**SB 504-FN**, relative to disbursements from the alcohol abuse prevention and treatment fund. (Finance)

**SB 508-FN**, relative to grant-funded programs. (Municipal and County Government)

**SB 517**, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions. (Resources, Recreation and Development)

**SB 525-FN-A**, relative to land and community heritage investment program administration. (Resources, Recreation and Development)

**SB 531**, permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit. (Municipal and County Government)

## SENATE MESSAGES

### CONCURRENCE

**HB 72**, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food.

**HB 459**, relative to the taxation of manufactured housing.

**HB 1141**, relative to dioxin emissions reduction and medical waste incinerators.

**HB 1154**, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court.

**HB 1160**, relative to the membership of the board of professional geologists.

**HB 1248-FN**, relative to the state board of nursing.

**HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge.

**HB 1325-FN-A**, relative to additional uses of the E-Z Pass system.

**HB 1403**, extending the reporting dates of certain study committees.

### NONCONCURRENCE

**HB 158**, allowing the voter to deposit the ballot into the ballot box.

### RECESS

(Rep. Dodge in the Chair)

### RESOLUTION

Rep. Alger offered the following: RESOLVED, pursuant to RSA 541-A:13, VII (f), in accordance with the list in the possession of the Clerk, House Joint Resolutions 25 and 26 shall be by this resolution read a first and second time by the therein listed titles, sent for printing and referred to the therein designated committees.

Adopted.

### INTRODUCTION OF HOUSE JOINT RESOLUTIONS

#### First, second reading and referral

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. (Patten, Carr 7; Mercer, Hills 59; O'Neil, Rock 85; Wall, Straf 72; Kathleen Taylor, Straf 70; Fields, Hills 58; Nelson Allen, Hills 63; Below, Dist 5; Estabrook, Dist 21; Gatsas, Dist 16; Larsen, Dist 15; Flanders, Dist 7: Executive Departments and Administration.)

**HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). (Patten, Carr 7; Mercer, Hills 59; O'Neil, Rock 85; Wall, Straf 72; Kathleen Taylor, Straf 70; ; Fields, Hills 58; Nelson Allen, Hills 63; Below, Dist 5; Estabrook, Dist 21; Gatsas, Dist 16; Larsen, Dist 15; Flanders, Dist 7: Executive Departments and Administration)

### RECESS

(Speaker Chandler in the Chair)

Rep. Hess moved that the House adjourn.

Adopted.

**HOUSE JOURNAL No. 8**

Wednesday, March 17, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Ever forgiving Creator, as You bless the work of this honorable House today, save it from loquacious and long-winded preachers who know not of what they speak, and may the Chaplain find a generous spirit of forgiveness within the membership. As always bless and protect those who stand in our defense today at home and in far away lands. Amen.

Rep. Bette R. Laskey led the Pledge of Allegiance.

The National Anthem was sung by Maria Simoes, a senior at Laconia High School.

**LEAVES OF ABSENCE**

Reps. Allison, Carlson, Claire Clarke, Flanagan, Ford, Hallyburton, Hutchinson, Pitts, Irene Pratt, Scamman, Schulze, Varrell and Weldy, the day, illness.

Reps. Barry, Bishop, Bridle, Burling, Campbell, Cernota, Richard Cooney, Currier, Dorsett, Duffy, Jeffrey Gilbert, Gonzalez, Hatch, Heon, Hopper, Phyllis Katsakiores, Katsiantonis, Robert Laflam, Charles Laflamme, Langer, Liebl, John Manning, McCann, McElroy, Messier, Moran, Ober, Reardon, Reed, Rodd, Ross, Tate, Wallner and Weed, the day, important business.

Reps. Brady, Christopher Dunne and Robert L'Heureux, the day, illness in the family.

**INTRODUCTION OF GUESTS**

Students Katie Wilson, Concord High School, Derrek Matthew, Bishop Guertin High School and Jeffrey Christensen, St. Paul's School, Pages for the Day, guests of the House. Jennifer Logan, guest of Rep. Lawrence. Al and Doretta Simoes, Alex Simoes, parents and brother of Maria Simoes, guests of the Laconia delegation.

**COMMITTEE REPORTS****CONSENT CALENDAR**

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**HB 1425**, relative to food safety in restaurants, removed by Rep. Michael Harrington.

**HR 24**, opposing the exploration for oil in the Arctic National Wildlife Refuge, removed by Rep. Michael Harrington.

**CLERK'S NOTE**

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

Consent Calendar adopted by the necessary two-thirds.

**HB 1198**, relative to reporting child custody statistics. **REFER FOR INTERIM STUDY**

Rep. David A. Bickford for Children and Family Law: The committee decided further study was necessary in order to determine what statistics it would like the courts to gather to help understand what is happening with the placement of children. Vote 11-0.

**HB 1312**, relative to the court's discretion to extend child support obligations. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This amended bill removes the discretion of the court to order child support for emancipated adult children unless disabled or still finishing high school. Vote 10-1.

**Amendment (0459h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Support and Custody of Children. Amend RSA 458:17, I to read as follows:

I. In all cases where there shall be a decree of divorce or nullity, the court shall make such further decree in relation to the support, education, and custody of the children as shall be most conducive to their benefit and may order a reasonable provision for their support and education *for the period of time specified in RSA 458:35-c*. All such support orders shall provide for the assignment of the wages of the responsible parent pursuant to RSA 458-B, including the exceptions listed in RSA 458-B:2.

2 Domestic Relations; Duration of Child Support. Amend RSA 458:35-c to read as follows:

458:35-c Duration of Child Support. ~~[Unless the court or other body empowered by law to issue and modify support orders specifies differently,]~~ The amount of a child support obligation stated in the order for support shall remain as stated in the order until all dependent children for whom support is provided in the order shall terminate their high school education or reach the age of 18 years, whichever is later, or become married, or become a member of the armed services, at which time the child support obligation terminates without further legal action. This amount shall remain as specified unless a legal order expressly allocates the payments on a per child basis. If the order involves a disabled child, the court shall specify the duration of the order, which may be beyond the time when the child reaches the age of 18.

3 Applicability. Enactment of this law shall not constitute a substantial change in circumstances for purposes of modification pursuant to RSA 458-C:7.

4 Effective Date. This act shall take effect upon its passage.

### **HB 1415**, relative to de facto child custody. **INEXPEDIENT TO LEGISLATE**

Rep. Thomas I. Arnold, Jr. for Children and Family Law: After substantial discussion, it was determined that the goal of this bill is incorporated in an even broader child guardianship statute, RSA 463. Vote 12-0.

### **HB 1202**, relative to third-party payment of covered services ordered by the juvenile court. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation addresses a problem regarding managed care health insurance companies refusing to pay for court-ordered medical services of juveniles. It appeared to some that the insurance companies were refusing to pay for services simply because they were court ordered, even though the service requested was a covered benefit of the juvenile's health insurance. The amendment, which replaces the entire bill, clarifies the fact that a health insurer must take notice of a claim by the parent where there is insurance covering the juvenile. The benefits shall be subject to the same dollar amounts, deductibles, co-payments and co-insurance factors, and to the terms and conditions of the policy or certificate of insurance. The claimant, however, has 72 hours after commencement of a court-ordered service placement to get the referral that is usually required under the policy. Determination of these pre-service claims shall be made as soon as possible by the insurance company, but in no event later than 72 hours after receipt of the request. The remainder of the amendment repeats this requirement in several different sections of the laws to cover all types of health insurance including small group and individual. Grave concerns were articulated at the commencement of the process, but at the conclusion the insurance department, the health insurers, and the juvenile justice services all supported the final amendment. Vote 15-1.

### **Amendment (0703h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Accident and Health Insurance; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 415 by inserting after section 18-o the following new section:

415:18-p Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in

no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

2 New Section; Health Service Corporations; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 420-A by inserting after section 15 the following new section:

420-A:15-a Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

3 New Section; Health Maintenance Organizations; Third-Party Payment of Covered, Court-Ordered Services. Amend RSA 420-B by inserting after section 8-n the following new section:

420-B:8-o Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:



I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

4 New Section; Managed Care Law. Amend RSA 420-J by inserting after section 6-b the following new section:

420-J:6-c Third-Party Payment of Covered, Court-Ordered Services. The existence of a court order under RSA 169-B, RSA 169-C, or RSA 169-D for a service, program, or placement that is covered under any insurance for the minor shall not be considered in determining qualification for third-party payment under such insurance. Benefits for such services shall be subject to the same dollar limits, deductibles, co-payments and co-insurance factors and to the terms and conditions of the policy or certificate, including any managed care provisions. However, the claimant or claimant's representative shall have 72 hours from the commencement of a court-ordered service, placement, or program to seek any pre-authorization, pre-certification, or referral required under the terms of the policy. The determination of these preservice claims for court-ordered services for a minor shall be made as soon as possible, taking into account the medical exigencies, but in no event later than 72 hours after receipt of the request and sufficient information, unless the claimant or claimant's representative fails to provide sufficient information to determine whether, or to what extent, benefits are covered or payable. In the case of such failure, the insurer shall notify the claimant or claimant's representative within 24 hours of receipt of the request and shall advise the claimant or claimant's representative of the specific information necessary to determine to what extent benefits are covered or payable. The claimant or claimant's representative shall be afforded a reasonable amount of time, taking into account the circumstances, but not less than 48 hours, to provide the specified information. Thereafter, notification of the claim determination shall be made as soon as possible, but in no case later than 48 hours after the earlier of:

I. The insurer's receipt of the specified additional information; or

II. The end of the period afforded the claimant or claimant's representative to provide the specified additional information.

5 Effective Date. This act shall take effect 90 days after its passage.

#### AMENDED ANALYSIS

This bill provides that an insurance provider shall not consider the existence of a court order under RSA 169-B, 169-C, and 169-D for a covered service, placement, or program in determining qualification for third-party payment for the service, placement, or program, provided that the claimant meets certain criteria established by the insurance provider.

**HB 1244**, relative to subcontractors' liens for labor and materials. **INEXPEDIENT TO LEGISLATE**  
Rep. Paul D. Spiess for Commerce: The intent of this bill is to protect the purchaser of a property from statutory mechanics liens filed by subcontractors who have not been paid for services provided to the property. In reality, these liens are judicial liens and can only be perfected by court order. Additionally, a standard title examination would expose the lien, or the risk of a lien being filed. These disputes are principally between contractors and subcontractors, and the seller of the property need only prove that all contract payments between the owner and the general contractor have been made. Vote 12-0.

**HB 1264**, relative to advertisement of prescription drugs. **REFER FOR INTERIM STUDY**  
Rep. Matthew J. Quandt for Commerce: The original legislation relative to advertisement for prescription drugs is current law so the sponsor, in conjunction with the Commissioner of Health and Human Services, brought in an amendment dealing with the drug companies' marketing and educating efforts in New Hampshire. The amendment is similar to laws in Maine and Vermont. The committee was interested in the subject matter, but many questions and details need to be worked on so the committee voted to keep the bill for work in this session. Vote 15-1.

**HB 1282**, relative to exemptions from the consumer protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation, as amended, will have far reaching effects on the ability of consumers to receive restitution in the event the consumer has been harmed by unfair or deceptive acts or practices of a regulated or licensed financial entity or an insurance company. Essentially the bill gives the relevant regulatory agencies the exclusive authority and

jurisdiction to investigate conduct that is or may be an unfair or deceptive act or practice, yet is exempt from the Consumer Protection Act under RSA 358-A:3, I. The bill, as introduced, would have added the real estate commission to the list of exempt departments under the consumer protection act. Currently any "Trade or commerce that is subject to the jurisdiction of the bank commissioner, the director of securities regulation, the insurance commissioner, the public utilities commission, the financial institutions and insurance regulators of other states, or federal banking or securities regulators who possess the authority to regulate unfair or deceptive trade practices" is exempt from the consumer protection act. The bill now gives authority and jurisdiction to the bank commissioner to investigate conduct by all regulated financial entities and licensees, including pay day lenders and title loan companies, that may be an unfair or deceptive act or practice. The insurance commission already has such authority and jurisdiction with respect to regulated entities and persons subject to its jurisdiction. The legislative intent is that any business that is exempt from RSA 358-A may be ordered by its regulatory agency to pay restitution to any consumers that the business may have harmed by committing unfair or deceptive acts. During the subcommittee work session, the Attorney General's Office of Consumer Protection emphasized that the customers injured by unfair or deceptive acts of the exempted regulated industries should have access to the remedies that are established by RSA 358-A. While RSA 358-A does provides a method for such restitution, the committee did not want to subject highly regulated industries to dual supervision, because it would be inefficient for the state and unfair to the regulated industry. However, the committee feels strongly that consumers should be able to obtain restitution. As a result of that discussion, the subcommittee then reviewed whether restitution was available under the four exemptions. Only two did not have restitution, banking and insurance. Currently, New Hampshire Insurance and Banking Department may suspend, revoke or refuse to renew the license of any person found to have violated their statutes. The insurance department does currently have an unfair trade practice statute but banking does not. Under the amendment to HB 1282, the insurance commissioner may order payment of restitution for actual economic loss sustained by any individual directly injured by violation of RSA 417, the insurance unfair trade practice law. Since banking did not have an unfair trade practice statute, the bank commissioner under this legislation, will be authorized to enforce the provisions of RSA 358-A against its regulated community. The bank commissioner will now be able to order restitution to consumers, who have not only been harmed by any violation of current banking laws or regulations, but also any unfair or deceptive acts or practices as defined by RSA 358-A. The committee feels this is a reasonable compromise and is intended to insure that consumers have a way to gain redress with minimal cost and effort. The committee would also make it clear that consumers do not have the right to take legal action under 358-A against those who are exempted under 358-A. The consumers will now be able to efficiently obtain redress of any unfair trade practice through restitution from the state departments that regulate those exempt businesses. Vote 16-0.

#### **Amendment (0700h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Consumer Complaint Administrator. Amend RSA 383 by inserting after section 10-e the following new section:

383:10-f Consumer Complaint Administrator. The commissioner shall annually designate one person from within the banking department who shall administer and coordinate the commissioner's response to consumer complaints concerning conduct in trade or commerce licensed under Title XXXVI or RSA 361-A, or conduct which is alleged to be an unfair or deceptive practice under the provisions of RSA 383:10-d.

2 Consumer Complaints and Restitution. RSA 383:10-d is repealed and reenacted to read as follows:

383:10-d Consumer Complaints and Restitution. The commissioner shall have exclusive authority and jurisdiction to investigate conduct that is or may be an unfair or deceptive act or practice under RSA 358-A and exempt under RSA 358-A:3, I or that may violate any of the provisions of Titles

XXXV and XXXVI and administrative rules adopted thereunder. The commissioner may hold hearings relative to such conduct and may order restitution for a person or persons adversely affected by such conduct.

3 Insurance; Orders and Penalty. Amend RSA 417:10 to read as follows:

417:10 Orders and Penalty. If after hearing or at the expiration of the period set forth in a show cause order issued pursuant to this chapter, any person is found to have violated RSA 417:3, the commissioner may suspend, revoke, or refuse to renew the license of that person. The commissioner, in the commissioner's discretion, in addition to or in lieu of such suspension, revocation, or refusal to renew, may impose upon that person an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of RSA 417:3. The commissioner shall collect the amount so imposed and may bring an action in the name of the state to enforce collection. *In addition, the commissioner may order the payment of restitution for actual economic losses sustained by any individual directly injured by violations of RSA 417:3. An insurer shall be permitted to satisfy an order of restitution which applies to current policyholders and which involves de minimis amounts by crediting the accounts of such policyholder where the mailing and processing costs of paying the restitution are not reasonable in relation to the de minimis amount thereof. The commissioner may also order the insurer or other appropriate person to remediate any method of competition, act, or practice found to be in violation of RSA 417:3.*

4 Insurance; Penalty. Amend RSA 417:13 to read as follows:

417:13 Penalty. If any person violates a cease and desist order issued by the commissioner pursuant to RSA 417:12, the commissioner may suspend, revoke, or refuse to renew the license of that person. The commissioner in the commissioner's discretion, in addition to or in lieu of such suspension, revocation, or refusal to renew, may impose upon that person an administrative penalty of not more than \$2,500 for each method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12. The commissioner shall collect the amount so imposed and may bring an action in the name of the state to enforce collection. *In addition, the commissioner may order the payment of restitution for actual economic losses sustained by any individual directly injured by any such method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12. An insurer shall be permitted to satisfy an order of restitution which applies to current policyholders and involves de minimis amounts by crediting their accounts where the mailing and processing costs associated with the restitution would not be reasonable in relation to the de minimis amount thereof. The commissioner may also order the insurer or other appropriate person to affirmatively remediate any method of competition, act, or practice found to be in violation of this chapter pursuant to RSA 417:12.*

5 Definitions. Amend RSA 417:18, II to read as follows:

II. "Consumer" means any natural person who is offered or supplied goods or services for personal, family, or household purposes, *and who has not received restitution under the provisions of RSA 417:10 or RSA 417:13.*

6 Effective Date. This act shall take effect January 1, 2005.

#### AMENDED ANALYSIS

This bill authorizes the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

#### **HB 1348-FN, relative to registration of business organizations. OUGHT TO PASS WITH AMENDMENT**

Rep. Mark A. Brady for Commerce: This bill makes a variety of changes to the process for registering business organizations pursuant to the request of the Secretary of State's Corporate Division. Specifically, as amended, the bill objectifies the process for the Secretary of State to take action on a deceptively similar name of a corporation. The bill also codifies the requirements for electronic filings and updates certain filing fees to be more reflective of the current market. Vote 16-0.

#### **Amendment (0402h)**

Amend RSA 293-A:1.22, (a)(12) as inserted by section 4 of the bill by replacing it with the following:  
(12) Late filing [~~\$50~~] **\$25 per month**

Amend RSA 304-C:81, I(d) as inserted by section 53 of the bill by replacing it with the following:

(d) Upon receipt for filing of an annual report under RSA 304-C:80, a fee in the amount of \$100; for failure or refusal to file an annual report or pay the filing fee by April 15 of any year, an additional late filing fee in the amount of [~~\$50~~] **\$25 per month**; and upon receipt for filing of an application for reinstatement pursuant to RSA 304-C:54, a fee of [~~\$75~~] **\$135**.

**HB 1409**, relative to the disclosure of protected health information by court ordered service providers. **REFER FOR INTERIM STUDY**

Rep. Matthew J. Quandt for Commerce: This legislation is relative to the disclosure of protection of health information by court-ordered service providers. At issue is whether an exemption involving HIPPA qualifies for the court-ordered treatment outside of the correctional institutions. The committee felt that we need more input on the issue before we asked for the exemption. Vote 13-3.

**HB 1146**, ratifying the national crime prevention and privacy compact. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: New Hampshire is already a member of the National Crime Prevention Compact. Therefore, this legislation is unnecessary. Vote 13-0.

**HB 1147**, relative to the use of deadly force in defense of a fetus. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill would justify a pregnant woman using deadly force upon another for the purpose of defending her fetus when she reasonably believes that such other person is using or is about to use unlawful, deadly, force against her fetus in the course of any act prohibited under Title LXII or RSA 173-B. The committee heard emotional testimony from both sides of this issue. However, current laws, in particular RSA 631:1 first degree assault, and RSA 631: 2 second degree assault, make it a felony for causing injury to another resulting in miscarriage or stillbirth. RSA 627:4, II (a) describes conditions under which deadly force can be used and does provide protection sought under this bill. The committee believes the bill is unnecessary. Vote 12-1.

**HB 1190**, relative to exceptions to the carrying or selling of certain weapons. **INEXPEDIENT TO LEGISLATE**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: At the public hearing on this bill, 13 persons responded to give testimony. Of those 4 were for the bill and 9 were against, including one of the sponsors and the Attorney General's office. It was felt by the committee that New Hampshire has some good weapons laws already on the books. This bill would possibly dilute our present weapons laws by allowing license holders to legally carry stilettos, switchblades, black-jacks, daggers, sling shots and metallic knuckles. Not all of these items are suitable for self defense. Vote 13-0.

**HB 1219-FN**, establishing penalties for transmission or distribution of obscene electronic mail. **REFER FOR INTERIM STUDY**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill along with several others dealt with the subject of the distribution of electronic obscene and pornographic material, prior to a new federal law called the, "Controlling the Assault of Non-solicited Pornography and Marketing Act" or CAN-SPAM Act. Most if not all the reasons for the New Hampshire bills to come before the house committees were found to be covered by this new CAN-SPAM Act. Though HB 1219 would add the requirement of a hyperlink to the senders' e-mail address, which in effect would request the sender to discontinue sending such electronic e-mail it was noted by some testimony that the Do Not Call List now advanced by the federal laws will soon be up and running for Do Not E-Mail. The committee would like to study this subject and monitor activities at the federal level. Vote 14-2.

**HB 1257-FN**, relative to penalties for driving under the influence with a minor in the vehicle. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill elevates Driving While Under the Influence when transporting a child under the age of 16 to Aggravated DWI. The committee amendment includes boating while intoxicated in the statute and clarifies RSA 265-82-b to remove a conflicting reference to RSA 262:82. Vote 14-0.

**Amendment (0603h)**

Amend the introductory subparagraph of RSA 215-A:11, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) While having an alcohol concentration of 0.08 or more *or, in the case of a person under the age of 21, 0.02 or more* and, at the time alleged:

Amend the introductory subparagraph of RSA 265:82-a, II as inserted by section 2 of the bill by replacing it with the following:

II. While having an alcohol concentration of 0.08 or more *or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more or, in the case of a person licensed pursuant to RSA 263:86 at the time of the offense and notwithstanding the provisions of RSA 263:94, 0.04 or more* and, at the time alleged:

Amend the bill by inserting after section 5 the following and renumbering the original section 6 to read as 7:

6 Penalties for Intoxication or Under Influence of Drug Offenses; Boating. Amend RSA 265:82-b, VIII to read as follows:

VIII. Any person convicted of a violation of RSA 215-A:11, RSA [265:82] **270:48-a**, or RSA 265:82-a, and who at the time of driving a vehicle or off highway recreational vehicle *or operating a boat* was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has successfully completed a 7-day program at the state-operated multiple DWI offender program or an equivalent 7-day residential intervention program approved by the commissioner at the person's own expense.

**HB 1271-FN**, repealing the license to carry provisions of state law. **INEXPEDIENT TO LEGISLATE**  
Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: This proposed bill would repeal the present carry license statute. Current license holders presently enjoy reciprocity with 17 other states. This law would invalidate that. Folks, who currently carry loaded firearms on OHRV's would no longer be able to because of the lack of a concealed carry license. It was not clear to the committee what problems would be solved by repealing the current concealed carry statutes, but it is clear that many problems would be created. Vote 12-1.

**HB 1274**, relative to evidence admissible in sexual assault cases. **REFER FOR INTERIM STUDY**  
Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would allow the introduction of conduct commonly referred to as "grooming" regardless of the prejudice to the defendant. The committee felt that this matter had merit; however, due to the considerable constitutional issues and other problems, as worded, the amount of time available was insufficient to give proper considerations to the matter and that interim study would allow this matter to be looked at and if resolved be redrafted for introduction in the first year of the next session. There would then be sufficient time to create a workable solution. Vote 15-0.

**HB 1310**, relative to licenses to sell firearms. **INEXPEDIENT TO LEGISLATE**  
Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: This bill would take away discretion from the local police chief, or the issuing authority, in the granting of licenses to sell, at retail, pistols and revolvers by changing "may" to "shall". It further would change the term of the state license from not more than 3 years to not less than 10 years. The committee was not convinced that this was an improvement as the mandatory federal firearms license is issued for three years. Vote 13-0.

**HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks. **OUGHT TO PASS**  
Rep. E. Albert Weare for Criminal Justice and Public Safety: The state and federal regulations relating to consumer and display fireworks are convoluted and in some cases confusing and in conflict with each other. This committee can look toward recodifications of applicable laws and regulations pertaining to fireworks and correct the problems pertaining to the sale and display of fireworks. Vote 12-3.

**HB 1341-FN**, relative to prohibited computer practices. **REFER FOR INTERIM STUDY**  
Rep. Stanley E. Stevens for Criminal Justice and Public Safety: The committee is recommending this bill be referred to interim study because the subject matter is currently under study by the Committee to Study the Integrated Criminal Justice Communication System, the so-called J-One project. Vote 11-4.

**HB 1343-FN**, making it a crime to cause the death of a fetus as a result of committing a violent act against a pregnant woman. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: After hearing testimony at great length on this bill, with the consent of the main sponsor, a motion was made to ITL this bill and concentrate on another bill that is similar in nature. Vote 12-3.

**HB 1347-FN**, implementing a "good time" sentence reduction system for inmates in the state prison system. **INEXPEDIENT TO LEGISLATE**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This is the so-called "good time bill" which attempted to address sentence reduction for inmates in the state prison system. Not surprisingly, most support for this bill came from prison inmates or their families. The attorney general, all of the county attorneys, and law enforcement, strongly opposed the bill. The committee felt that the current "truth in sentencing" law was a good law that is well received by the public and crime victims. The proposed bill would invalidate truth in sentencing. Further, the Department of Corrections would not be able to handle the number of prisoners that would automatically become immediately eligible for early release if the bill were passed. Those currently serving sentences would, in effect, have a change in sentence after the judge has made consideration of mitigating circumstances. The judge has already heard all the evidence, reviewed the present investigation, and listened to the victims. It would be wrong to disregard these considerations by giving across the board sentence reductions. Truth in sentencing already allows 150 days a year to be deducted from a prisoner's maximum sentence, not the minimum this bill proposes. Part of the reason cited for this bill is shortening sentences in order to reduce expenditures. While this is a laudable goal, it should not be what drives sentencing policy. Vote 13-1.

**HB 1349-FN-L**, relative to medical parole. **REFER FOR INTERIM STUDY**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would reduce the costs of the Department of Corrections tremendously by granting parole to those prisoners who have a terminal or permanently debilitating illness thus making them eligible for Medicaid upon parole. However, while this would make approximately 50% of the cost paid by Medicaid, it would cost shift 25% of the costs to the counties. This could increase the county liability in the hundreds of thousands and perhaps millions of dollars depending upon the number of prisoners paroled and where they reside. This increase in liability could come after the county budgets are passed and could happen at random intervals resulting in the counties either cutting services to balance the budget or requiring a supplemental budget, passing the increase to the county taxpayer. Vote 15-0.

**HB 1351-FN**, relative to penalties for acts committed during a riot. **INEXPEDIENT TO LEGISLATE**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: The Criminal Justice and Public Safety Committee recognizes the sponsors earnest desire to address the serious issue of rioting on and near our college campuses; however, two bills warranting equal consideration were presented to the committee. The committee felt this bill would require the reduction in penalty for rioting from a Class B felony to a Class A misdemeanor. It also would establish a minimum mandatory sentence of 30 days imprisonment and mandate the expulsion of students involved. The committee felt these decisions were best left to the courts and university officials. This bill does address the issue of cruelty to a law enforcement animal used in quelling a riot, however reduces the current penalty of a Class B felony for that act (RSA 644:8) to a misdemeanor. The committee voted to support HB 1361, which addresses the intent of this bill. Vote 16-0.

**HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus. **OUGHT TO PASS WITH AMENDMENT**

Rep. Karl I. Gilbert for Criminal Justice and Public Safety: The submission of this important bill to the Criminal Justice & Public Safety Committee provides the General Court the opportunity to address and rectify the criminal acts of rioting occurring on, and adjacent to, our public colleges and university campuses. Being an enabling measure, this bill would allow the court, upon finding of guilt, in addition to criminal penalties as per RSA 644:1 to order restitution of damages occurred during a riot. The court would also have the ability of restricting those responsible from entering upon any public university or college campus for a period of up to two years. The University of New Hampshire system in conjunction with their respective community leaders need this critical legislation to strengthen their position of zero tolerance relating to criminal behavior in an educational environment. Vote 14-0.

**Amendment (0727h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Breaches of the Peace; Riot. Amend RSA 644:1 by inserting after paragraph IV the following new paragraph:

V.(a) If the conduct comprising the offense of riot occurred within any municipality in which a student housing facility owned by a public institution of higher education is located, or in any adjacent municipality, the following penalties may be imposed, in addition to those set forth in RSA 651:

(1) The court may order the individual not to enter the campus of any public institution of higher education in this state as follows:

(A) If the offense is a felony, for a period of time not to exceed 2 years following the imposition of sentence or the completion of any term of imprisonment.

(B) If the offense is a misdemeanor, for a period of time not to exceed one year following the imposition of sentence or the completion of any term of imprisonment.

(2) The court may order the individual to pay restitution to the public institution of higher education and, if appropriate, any municipality for expenses incurred as a result of the riot. The amount shall be reasonable and shall not exceed the individual's fair and reasonable share of the costs.

(b) An order issued under this section shall not apply to any of the following:

(1) Entering onto the campus of a public institution of higher education to obtain medical treatment.

(2) Traveling on a public roadway situated on the campus of a public institution of higher education for the purpose of traveling to a location other than on such campus.

(c) For the purposes of this section, "public institution of higher education" shall include any public community college, public college, or public university.

2 Effective Date. This act shall take effect upon its passage.

**HB 1365-FN**, relative to hearing ear dogs, guide dogs, and service dogs. **REFER FOR INTERIM STUDY**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill would require a person interfering with a hearing ear dog, guide dog, or service dog to make full restitution for all damages. While this is an important consideration, the sponsor and many of the people testifying before the committee, wanted to also provide serious criminal penalties for persons who injure or kill these specialized dogs. Given the short period of time available to the sub-committee, and the variety of issues raised, it was the feeling of the committee that more time was needed to address the concerns raised in this legislation. Vote 13-0.

**HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: The amended bill would now allow, at the request of a 16 year old or younger sexual assault victim, with the approval of the prosecutor, that the court shall permit the parents or legal guardians to remain with the victim during the entirety of the procedure. In the past, all the defense had to do was to ask for the sequestering of witnesses, including the parents, thus eliminating the emotional support that the victim might need. Vote 16-0.

**Amendment (0778h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Sexual Assault; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph IV the following new paragraph:

V. At the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, the court shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

2 Effective Date. This act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill provides that the court, upon the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

**HB 1380-FN**, establishing a criminal penalty for unauthorized video surveillance. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill adds so-called “up skirting” or “down blousing” as a violation of privacy. It also makes clear that a person has a right to privacy from surveillance in public restrooms, locker rooms, or any place where a person’s private body parts, including genitalia, breasts or buttocks may be exposed. Vote 15-0.

**Amendment (0781h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to unauthorized video surveillance.

Amend the bill by replacing section 1 with the following:

1 Breach of Peace; Violation of Privacy. RSA 644:9, I-II is repealed and reenacted to read as follows:

I. A person is guilty of a class A misdemeanor if such person unlawfully and without the consent of the persons entitled to privacy therein, installs or uses:

(a) Any device for the purpose of observing, photographing, recording, amplifying, broadcasting, or in any way transmitting images or sounds of the private body parts of a person including the genitalia, buttocks, or female breasts, or so-called “up-skirting” or down-blousing”; or

(b) In any private place, any device for the purpose of observing, photographing, recording, amplifying or broadcasting, or in any way transmitting images or sounds in such place; or

(c) Outside a private place, any device for the purpose of hearing, recording, amplifying, broadcasting, or in any way transmitting images or sounds originating in such place which would not ordinarily be audible or comprehensible outside such place.

II. As used in this section, “private place” means a place where one may reasonably expect to be safe from surveillance including public restrooms, locker rooms, or any place where a person’s private body parts including genitalia, buttocks, or female breasts may be exposed.

**AMENDED ANALYSIS**

This bill revises the provisions of the violation of privacy statute relative to unauthorized video surveillance.

**HB 1412**, relative to college and university recognition of student organizations and athletic teams. **INEXPEDIENT TO LEGISLATE**

Rep. John Alger for Education: The prime sponsor spoke with the committee chairman and advised him the bill was no longer needed. The policy of the bill would have restricted institutions within the state university system from adopting certain rules regarding membership in that institution. The prime sponsor reported satisfactory communication with the university system eliminating need for the bill. Vote 17-0.

**HB 1159**, relative to prohibited employment for state liquor commission employees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Carl G. Robertson for Executive Departments and Administration: This bill exempts certain employees of the state liquor commission from the prohibition on holding a wine or liquor representative license for one year after termination of employment. The committee’s investigation determined that the commissioners and their three market specialist control the decision as to what wines and spirits are sold in New Hampshire. The length of time a product is kept on the shelf is strictly determined by its sales. As a result, this bill will only restrict elected state officials, members of the liquor commission and those employees directly responsible for making recommendations to the commission relative to the purchase of liquor and wine from holding a representative license for one year after leaving office or terminating employment. Vote 13-2.

**Amendment (0733h)**

Amend the bill by replacing section 1 with the following:

1 Employment Prohibited. Amend RSA 179:21 to read as follows:

179:21 Employment Prohibited. No elected state official, member of the liquor commission, or employee of the liquor commission *responsible for making recommendations to the commission relative to the purchase of liquor, wine, or beer* shall hold a liquor or wine representative license[; or salesperson’s liquor or wine license] for a period of 1 year from the date that such person leaves office or terminates such employment.



## AMENDED ANALYSIS

This bill limits the applicability of the prohibition on holding certain licenses during the first year after leaving office or terminating employment with the liquor commission.

**HB 1364-FN**, establishing a statutory joint commission to review and propose changes to state unclassified officers' salaries. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilôtte for Executive Departments and Administration: The purpose of this legislation is to establish a statutory committee, which will have the responsibility of reviewing and recommending to the legislature the approval of the appropriate salary grade for unclassified state employee positions. The bill contains language explaining the process for setting the salary grade for any new unclassified position as well as for the upgrade or downgrade of existing unclassified positions. The acting director or administrative head of any agency or department shall submit a recommendation to the commissioner of administrative services. The commissioner shall submit the recommendation to an outside consultant retained for the purpose of assessing the appropriate letter grade of unclassified state officers. The consultant shall assess the recommendation and report to the joint committee on compensation of state officers. The committee shall set a temporary letter grade allocation for each position referred. The committee shall subsequently propose to the general court legislation recommending permanent salary levels. Vote 16-0.

**Amendment (0767h)**

Amend the bill by replacing all after section 1 with the following:

2 Compensation of State Officers; Allocation Decisions. Amend RSA 94:1-d to read as follows:

94:1-d Allocation Decisions. Each acting director or administrative head of any state agency or department shall submit his ~~[decision]~~ *or her recommendation* relative to appropriate letter grades for any new position, vacancy, upgrade or downgrade occurring in ~~[his]~~ *the* agency or department to the ~~[fiscat]~~ *commissioner of administrative services. The commissioner shall submit the recommendation to an outside consultant retained for the purpose of assessing the appropriate letter grade of unclassified state officers. The consultant shall assess the recommended allocation, recommend an alternate allocation, if necessary, and include the reasoning for such allocation in its report. The commissioner shall submit the consultant's report to the joint committee* established in RSA ~~[14:30-a]~~ *94:10*, for its review and temporary letter grade allocation.

3 Salary Adjustment; Joint Committee on Compensation. Amend RSA 94:3-b to read as follows:

94:3-b Salary Adjustment for Recruitment or Retention. Notwithstanding any other provisions of law to the contrary, upon the request of an appointing authority submitted to the commissioner of administrative services for review and evaluation and upon approval by the ~~[fiscat committee of the general court]~~ *joint committee on compensation of state officers*, the governor and council is hereby authorized and empowered upon a finding by them that it is in the best interests of the state and is necessary in order to recruit and retain or recruit or retain qualified personnel to increase the salary ranges of unclassified positions.

4 New Section; Office of Legislative Services; Drafting Salary Legislation. Amend RSA 17-A by inserting after section 6 the following new section:

17-A:7 Legislation Relating to Unclassified State Officers. Legislation establishing a new, upgraded, or downgraded state unclassified officer position shall be drafted by the office of legislative services without a recommended salary allocation, which shall be indicated in the legislation, if possible. Legislative changes to the salaries of unclassified officers listed in RSA 94:1-a, I shall be adopted in legislation reflecting the review and allocation approval by the joint committee on compensation of state officers pursuant to the procedure in RSA 94:1-d and RSA 94:10.

5 Repeal. RSA 14:30-a, IV, relative to review by the fiscal committee of allocation decisions, is repealed.

6 Effective Date. This act shall take effect 60 days after its passage.

**HB 1406**, relative to the regulation of physician assistants. **INEXPEDIENT TO LEGISLATE**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill makes various revisions to the licensure, regulation and discipline of physician assistants. The committee learned that the Senate passed a bill, SB 375, dealing with the same issue in greater detail. The committee will take action on the senate bill. Vote 14-0.

**SB 493**, repealing examination standards for certified public accountants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: With the conversion from a pen and paper examination to a computer-based Uniform CPA examination, the Board of Accountancy has requested that New Hampshire accept the national standards for passing grade and an 18 month maximum time limit for completion of all sections of the examination. The committee decided to maintain in statute the passing grade of 75% and establish a maximum of 10 attempts for completion of the exam. Section two of the amendment makes provision for phasing in the candidates who have already completed some sections of the exam in its pen and paper version. Vote 15-0.

### Amendment (0793h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to examination standards for certified public accountants.

Amend the bill by replacing all after the enacting clause with the following:

1 Certified Public Accountants; Certification. Amend RSA 309-B:5, V to read as follows:

V. An applicant shall be required to pass all sections of the examination provided for in paragraph IV in order to qualify for a certificate. A passing grade for each section shall be 75. ~~[If, at a given sitting of the examination, an applicant passes 2 or more but not all sections, the applicant shall be given credit for those sections passed and need not sit for reexamination in those sections, provided that:~~

~~(a) At that sitting the applicant wrote all sections of the examination for which the applicant does not have credit;~~

~~(b) The applicant attained a minimum grade of 50 on each section not passed at that sitting;~~

~~(c) The applicant passes the remaining sections of the examination within 5 years of the examination at which the first sections were passed;~~

~~(d) At each subsequent sitting at which the applicant seeks to pass any additional sections, the applicant writes all sections for which the applicant does not have credit; and~~

~~(e) In order to receive credit for passing additional sections in any such subsequent sitting, the applicant attains a minimum grade of 50 on sections taken at that sitting.] The applicant shall pass all sections of the examination within 18 months of the examination at which the first section was passed. No candidate shall be allowed more than 10 attempts to complete all sections of the examination.~~

2 Applicability. Notwithstanding section 1 of this act, applicants who have passed 2 or more sections of the examination by April 1, 2004 shall be required to complete all remaining sections no later than December 31, 2005.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill changes the time frame in which a candidate as a certified public account has to complete all sections of the exam.

**HB 612-FN-L**, making certain changes to the allocation of catastrophic aid expenditures. **REFER FOR INTERIM STUDY**

Rep. Elizabeth S. Hager for Finance: The committee held many work sessions on this bill, and although we understand the importance of the policy, we cannot get good, tight numbers on the financial impact. After basic school funding is settled this session and after the Department of Education provides additional dollar numbers, this bill can be finalized. Vote 18-1.

**HB 640-FN**, relative to post-conviction DNA testing. **OUGHT TO PASS**

Rep. Robert G. Holbrook for Finance: Post-conviction DNA testing is currently available in New Hampshire and this bill does not create a new avenue for defendant appeals. What HB 640 does do is formalize the process by establishing standards a petitioner must meet to qualify for post-conviction DNA testing. This bill also provides much needed criteria to determine how long evidence must be preserved and when it can be destroyed. Representatives from the Attorney General's Office, Public Defenders Office, Department of Safety and Indigent Defense all support this bill and further note this bill will not cost money and may actually save money and avoid confusion. Vote 17-0.

**HB 645-FN-A-L**, relative to educational scholarship grants by the postsecondary education commission to qualifying private education institutions. **REFER FOR INTERIM STUDY**

Rep. Robert K. Dodge for Finance: Private educational institutions in New Hampshire pay property tax on some of their holdings, for example on dormitories and cafeterias. For many years, they have been trying to lessen some part of their tax burden. This year, the Municipal and County Government and Ways and Means Committees struggled with how to address this problem without harming their host communities. Eventually, with the agreement of the House, a bill was passed on to the Finance Committee that called for the state to make payments to these educational institutions that could be used for scholarships for New Hampshire students. There was no money in the bill for this or any other purpose. The sponsors were candid that there was no requirement for any institution to increase its financial aid and that this was merely a mechanism to provide compensation for the property taxes paid by the institutions. While the committee understands the desire of the educational institutions to be freed from the requirement to pay property taxes, the committee had many questions about both the proposed method and the eventual cost that could best be explored in detail in the interim. Vote 15-4.

**HB 781-FN-A**, establishing the office of corrections ombudsmen. **REFER FOR INTERIM STUDY**  
Rep. MaryAnn N. Blanchard for Finance: The Chairmen of the House ED&A and Criminal Justice Committees agree to continue to work on the policy of this bill. The history to date of the nature and number of voluntary settlements occurring in the Department of Corrections indicates a severely unhealthy environment in the department for both personnel as well as inmates. There is a real urgency to put in place a well-thought out program to reduce these problems. Vote 19-0.

**HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. **OUGHT TO PASS**  
Rep. Marjorie K. Smith for Finance: The community-technical college system operates a child care center which serves as a model for other child care programs while it offers training opportunities for students interested in entering the field of child care. To conform with licensing requirements, and offer appropriate care, a certain number of staff members must be present at all times. Under current conditions which include a hiring freeze for all except emergency and direct care employees, if a staff member leaves, a replacement could be hired only after going through the arduous process to receive an exemption from the freeze. The Finance Committee agreed with the policy committee that these child care workers should be included in the definition of emergency and direct care workers, thereby exempting them from the requirements of the hiring freeze. This would have no effect on the general fund. Vote 20-0.

**HB 1324-FN**, authorizing the position of clerk of the board of manufactured housing. **INEXPEDIENT TO LEGISLATE**

Rep. Eric Anderson for Finance: A subcommittee of the Finance Committee held three work sessions on the bill with representatives from the Manufactured Housing Board and the Division of Personnel in attendance. The Board of Manufactured Housing and the Division of Personnel worked together to reassess the position of the Board Clerk. They agreed to reclassify the position at labor grade 16, paralegal 1, step 2 at \$13.78 per hour. Formerly, the position was classified at labor grade 9, step 4 at \$11.26 per hour. All parties were in agreement. Therefore, this legislation is not needed. Vote 19-0.

**HB 1399-FN-A**, establishing the telecommunications planning and development fund. **OUGHT TO PASS**

Rep. Robert G. Holbrook for Finance: This bill establishes a development fund for telecommunications planning. The fund will accept present funds and future gifts for technological advancement in the fast moving communications field. As the bill is written the fund will be established 60 days from bill passage and will sunset on July 1, 2008. Vote 18-0.

**HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: HB 1411 creates a committee to study funding sources for the state laboratories and extends the lapse date for a capital appropriation in the Department of Corrections. This bill was amended by the Committee to include four members of the House to allow for the participation of thought from capital and operating budgets. The Committee felt that it was important to include input from both areas, since issues from each had to be dealt with on this topic. Vote 20-0.

**Amendment (0693h)**

Amend subparagraph I(a) as inserted by section 2 of the bill by replacing it with the following:

(a) Four members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the ways and means committee, 2 of whom shall be members of the finance committee, and one of whom shall be a member of the public works and highways committee.

**SB 472**, relative to updating the terminology in statutes affecting children with special health care needs. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill eliminates the term "crippled children" and replaces it with "children with special health care needs." From the 1930's through the 1970's, a majority of the states that were funded through Title V of the Social Security Act were called Crippled Children's Services (CCS) Program. There was a consensus that the term "crippled children" was stigmatizing. In response, Congress changed the name of this program to "State Programs for Children with Special Health Care needs." This bill will bring state terminology in alignment with federal terminology. Vote 11-0.

**HB 1394**, relative to de novo appeals in certain criminal proceedings. **OUGHT TO PASS WITH AMENDMENT**

Rep. James W. Craig for Judiciary: This bill attempted to redesign the methods of appealing misdemeanor convictions to the Superior Court. However, upon reflection, a subcommittee uncovered related issues that were objectionable but had not been aired in a public hearing. The committee therefore deleted the problematic sections and amended the bill to allow the Superior Court to have original jurisdiction over Class A misdemeanor cases that fall within guidelines established by the Attorney General. This bill would allow the state to try felony and Class A misdemeanor charges against a defendant in the same court in the same trial in the proper situation. Vote 16-0.

**Amendment (0713h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Jurisdiction and Procedure; Superior Court; Class A Misdemeanor Cases. Amend RSA 592-A:1 to read as follows:

592-A:1 Superior Court. The superior court has jurisdiction of all criminal cases and proceedings; but it may dismiss a prosecution originally begun therein which is within the jurisdiction of a district [~~or municipal~~] court, *with the exception of class A misdemeanor cases brought in superior court by the attorney general or county attorneys pursuant to guidelines promulgated by the attorney general delineating the circumstances under which the attorney general and the county attorneys may initiate class A misdemeanor cases in superior court. The court may dismiss, without prejudice, any class A misdemeanor case not brought within the parameters established by the attorney general's guidelines, however this provision is not intended to create any right of a defendant to seek dismissal on that basis.*

2 Effective Date. This act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill provides that the superior court shall have original jurisdiction over class A misdemeanor cases that fall within guidelines established by the attorney general.

**SB 350**, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. **REFER FOR INTERIM STUDY**

Rep. Eric G. Stohl for Legislative Administration: This bill would provide access by the legislative budget assistant to confidential information maintained by the department of revenue administration. The public hearing on the bill raised concerns relating to jeopardizing security of the data. The hearing was recessed for one week with assurances from both LBA and DRA that they would meet and establish an amendment to the bill. The two parties could not reach a compromise and the committee felt more time is needed to study all the aspects of the issue. Vote 12-0.

**HB 1427**, continuing the New Hampshire National Guard Educational Assistance Act. **INEXPEDIENT TO LEGISLATE**

Rep. Peter M. Sullivan for State-Federal Relations and Veterans Affairs: The bill repeals the sunset provision of the National Guard Educational Assistance Act. The Senate has incorporated this repeal into an amended HB 65. Thus, HB 1427 is redundant. Vote 11-0.

**SB 479**, commemorating the anniversary of the founding of the United States Marine Corps. **OUGHT TO PASS**

Rep. Ken Hawkins for State-Federal Relations and Veterans Affairs: This bill would recognize the anniversary of the founding of the Marine Corps by flying the Marine Corps flag over the State House on November 10 each year. Presently the Army, Navy, Air Force and Coast Guard flags are flown on their respective anniversaries. This adds the Marine Corps to RSA 4:13-i. Vote 12-0.

**HB 1316-FN-A**, relative to the computation of tax on certain telecommunications services under the communications services tax. **OUGHT TO PASS WITH AMENDMENT**

Rep. Jeffrey D. Gilbert for Ways and Means: This legislation as amended puts forth a set of uniform rules commonly known as "sourcing" that was developed and endorsed by the National Conference of State Legislators, the American Legislative Exchange Council and a group of firms in the telecom industry. "Sourcing" is the determination of the jurisdiction within which a transaction is considered to take place for tax purposes. The legislation establishes clear rules for "sourcing" of telecommunications service not sold on a call-by-call basis (bundled communication offers); calling card service and private communication services (a service that allows the customer exclusive or priority use of a communication channel). Its purpose is to modernize rules for determining when a communication service is taxable in New Hampshire and to simplify compliance and avoid double taxation by conforming to uniform tax rules for determining the state within which a communication service takes place. It is not a determination of whether the transaction is taxable. The amendment establishes a committee to study the feasibility of unbundling communications services charges; the recordkeeping required by communications services providers; the revenue implications of excluding certain unbundled charges from taxation and the application to voice over the internet services. The amendment also makes technical corrections to the definition of "paid calling service" and the rate of tax. Nineteen states have adopted this legislation, six states have no sales tax on telecommunications services and the twenty- six remaining states are pursuing this legislation. This bill is revenue neutral and its passage will help the legislature determine where the communications services tax is to be collected and simplifies the administration by the Department of Revenue Administration and the industry. Vote 18-0.

**Amendment (0650h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.

Amend the bill by deleting section 2 and renumbering the original sections 3-9 to read as 2-8, respectively.

Amend RSA 82-A:2, XXIII as inserted by section 4 of the bill by replacing it with the following:

XXIII. "Paid calling service" means the communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, calling card, or debit card, or by charge made to a telephone number which is not associated with the origination or termination of the communications service.

Amend RSA 82-A:4 as inserted by section 5 of the bill by replacing it with the following:

82-A:4 Imposition of Tax; Interstate Communications Services. Except as provided in RSA 82-A:4-b, a tax is imposed upon interstate communications services and private communications services furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of 7 percent of the gross charge when such service purchased on a call-by call basis originates in this state and terminates outside this state or originates outside this state and terminates in this state and the service address is in this state, or when such service purchased on a basis other than a call-by-call basis is provided to a person with a place of primary use in this state or when such private communications services are apportioned to this state in accordance with RSA 82-A:4-c. Provided however, a tax is imposed upon interstate paid calling service furnished to a person in this state and purchased at retail from a retailer by such person, at the rate of 7 percent of the gross charge when the origination point of the communications signal (as first identified by either (a) the seller's telecommunications system, or (b) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller) is in this state. To prevent actual multi-state taxation of communications services that are subject to

taxation under this section, any taxpayer, upon proof that that taxpayer has paid a tax in another state on such services, shall be allowed a credit against the tax imposed in this section to the extent of the amount of such tax properly due and paid in such other state. However, such tax is not imposed on communications services to the extent such services may not, under the Constitution and statutes of the United States, be made the subject of taxation by the state.

Amend the bill by replacing all after section 6 with the following:

7 Applicability; Sections 1-6. Sections 1-6 of this act shall apply to bills issued on or after January 1, 2005; provided, however, in the case of private communications services, if information on mileage is not available, the department of revenue administration may allow the application of the apportionment rules in RSA 82-A:2, XIII to prior periods and provided further, in the case of a paid calling service, the carrier shall be allowed a transition period from January 1, 2005 through June 30, 2005 in which to change its tax systems to conform with the provisions of this act.

8 Committee Established. There is established a committee to study the feasibility of unbundling communications services charges.

9 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

10 Duties. The committee shall study the feasibility of unbundling communications services charges. In addition, the committee shall study the recordkeeping required by communications services providers, the revenue implications of excluding certain unbundled charges from taxation, and the application to voice over internet services.

11 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

12 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

13 Effective Date.

I. Sections 1-7 of this act shall take effect July 1, 2004.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill changes the definitions of "gross charge", "service address," and "place of primary use" and adds definitions of "paid calling service" and "private communications service" for purposes of the communications services tax. The bill establishes certain rules for computation of the tax for private communications services and paid calling services. The bill also establishes a committee to study the feasibility of unbundling communications services charges.

### CLERK'S NOTE

The Constitutionally required two-thirds of the membership for action by majority vote was declared present.

### REGULAR CALENDAR

**HB 1393**, relative to the appeal of the lower court's decision in a child protection case. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Margaret D. Hallyburton for the Majority of Children and Family Law: This bill came about as the result of the "Committee to Study the Process of De Novo Appeals from the District Court", established by HB 77. The right of de novo appeal was established in the 19th century, when all but a few of the District Court judges and magistrates were lay people, not versed in the law. With the backlogs in the courts, we do not have the resources to replay the District Court hearing in Superior Court. The revised appellate process allows for admission of newly discovered evidence and for submittal of memoranda in support of the parties' positions. It does not subject a child wit-

ness to having to testify yet again, re-victimizing the child in the process. This is an appeal "as of right", not discretionary. The defense bar will no longer be able to use the District Court adjudication as a deposition; they will have to prepare their defense for District Court. The committee agreed to follow up on statistical feedback on the effectiveness of the revised appellate process. Vote 9-3. Rep. David A. Bickford for the Minority of Children and Family Law: The committee heard testimony that the district courts are "hurried" and agrees with Judge Galway's information shared with the committee stating the NH Supreme Court has "long recognized the right to raise and care for one's children as a fundamental liberty interest protected by Part I, Art. 2 of the State Constitution." We feel that government must recognize this and afford parents every opportunity to defend that right. We also agree that the de novo hearing provides an important second look and allows both parties to present the evidence after a cooling off period has taken place.

### **Majority Amendment (0734h)**

Amend RSA 169-C:28, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The superior court shall give an appeal under this chapter priority on the court calendar, and shall review the district court or family division adjudicatory ruling to determine whether the ruling is clearly unreasonable or arbitrary. The dispositional order of the district court or family division is not subject to review or modification by the superior court. The appealing party shall have the burden of proof. In reviewing the district court or family division ruling, the superior court may accept offers of proof and shall accept written memoranda from the appealing party and other parties, and may review all or parts of the district court or family division record. As justice may require, the superior court may remand the appeal to the district court or family division for further findings of fact. The superior court shall allow for newly discovered evidence to be presented de novo if the evidence was not known or available upon reasonable search at the time of the district court or family division adjudication, is material and relevant, and has potentially significant merit.

III. If the superior court finds that the district court or family division adjudicatory finding of abuse or neglect is clearly unreasonable or arbitrary, the superior court shall dismiss the abuse or neglect petition with prejudice. If the superior court finds that a dismissal of the petition by the district court or family division was improper and finds, further, that the child has been abused or neglected, then the superior court shall so rule and shall return the matter to the district court or family division for disposition. If the superior court finds that the district court or family division adjudicatory ruling is not clearly unreasonable or arbitrary, the superior court shall so rule and shall return the matter to the district court or family division. The corrective time period shall commence from the date of the district court or family division adjudicatory order.

Majority amendment adopted.

Rep. James Wheeler spoke against.

Rep. Arnold spoke in favor and yielded to questions.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

### **YEAS 232 NAYS 76**

#### **YEAS 232 BELKNAP**

Bartlett, Gordon	Clark, Charles	Dewhurst, Glenn	Fitzgerald, James
Flanders, Donald	Holbrook, Robert	Nedeau, Stephen	Pilliod, James
Russell, David	Thomas, John	Whalley, Michael	

#### **CARROLL**

Brown, Carolyn	Derby, Mark	Dickinson, Howard	McConkey, Mark
Morrow, Harry	Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald
Stevens, Stanley			

#### **CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espieffs, Peter
Fish, Douglas	Hunt, John	Meador, David	Mitchell, McKim
Parkhurst, Henry	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Smith, Edwin	Tilton, Anna		

**COOS**

Guay, Lawrence  
Richardson, Herbert  
Woodward, David

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

Poulin, Richard  
Tholl, John Jr

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Hammond, Lee  
Scovner, Nancy  
Williams, Burton

Alger, John  
Bleyler, Ruth  
Dudley, Terri  
Maybeck, Margie  
Sokol, Hilda

Almy, Susan  
Cooney, Mary  
Eaton, Stephanie  
Naro, Debra  
Solomon, Peter

Barker, Robert  
Densmore, Edward  
Ham, Bonnie  
Nordgren, Sharon  
Sorg, Gregory

**HILLSBOROUGH**

Allan, Nelson  
Beaton, William  
Bruno, Pierre  
Chabot, Robert  
Cote, Peter  
Drisko, Richard  
Gargas, Carolyn  
Hawkins, Ken  
Irwin, Anne-Marie  
Kopka, Angeline  
Lawrence, James  
Mercer, Robert  
Pappas, Christopher  
Reeves, Sandra  
Sullivan, Francis  
Wheeler, Robert

Arnold, Thomas Jr  
Bergin, Peter  
Buckley, Raymond  
Christensen, D L Chris  
Craig, James  
Emerton, Larry  
Gorman, Mary  
Haytayan, Harry Jr  
Jasper, Shawn  
Kurk, Neal  
Leach, Edward  
Mosher, William  
Pepino, Leo  
Scanlon, Michael  
Sullivan, Peter

Baroody, Benjamin  
Brassard, Paul  
Carter, Jeffrey  
Clemons, Jane  
Desmarais, Vivian  
Fields, Dennis  
Goyette, Peter Jr  
Hunter, Bruce  
Jean, Claudette  
LaFlamme, Paul  
Lessard, Rudy  
Movsesian, Lori  
Pilotte, Maurice  
Shaw, Barbara  
Sweeney, Cynthia

Batula, Peter  
Brundige, Robert  
Carter, Mark  
Cote, David  
Dokmo, Cynthia  
Fletcher, Richard  
Graham, John  
Infantine, William  
Johnson, Lionel  
Lasky, Bette  
McHugh, Claire  
Palangas, Eric  
Price, Pamela  
Spiess, Paul  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla  
Osborne, Jessie  
Rush, Deanna

Blanchard, Elizabeth  
DeJoie, John  
Gile, Mary  
Kenison, Leon  
MacKay, James  
Owen, Derek  
Seldin, Gloria

Bouchard, Candace  
DeStefano, Stephen  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy  
Perkins, Randy

Brueggemann, Donald  
Fraser, Leo Jr  
Hess, David  
Leber, William  
McCormick, Tom  
Potter, Frances

**ROCKINGHAM**

Blanchard, MaryAnn  
Coes, Betsy  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Introne, Robert  
Langley, Jane  
Morris, Richard  
Packard, Sherman  
Robertson, Carl  
Splaine, James  
Welch, David

Carson, Sharon  
Dodge, Robert  
Flanders, John Sr  
Gleason, John  
Headd, James  
Johnson, Robert  
Langone, John  
Norelli, Terie  
Pantelakos, Laura  
Roessner, Kurt  
Stone, Joseph  
Winchell, George

Casey, Kimberley  
Dowd, John  
Francoeur, Sheila  
Gould, Kenneth  
Hughes, Daniel  
Johnson, Rogers  
Major, Norman  
Noyes, Richard  
Priestley, Anne  
Shultis, Elizabeth  
Tufts, J Arthur  
Zolla, William

Clark, Vivian  
Dumaine, Dudley  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Kelley, Jane  
McKinney, Betsy  
O'Neil, Michael  
Rausch, James  
Smith, Paul  
Weare, E Albert

**STRAFFORD**

Berube, Roger  
Dunlap, Patricia  
Kaen, Naida

Brown, Julie  
Grassie, Anne  
Keans, Sandra

Callaghan, Frank  
Hofemann, Roland  
Knowles, William

Creteau, Irene  
Johnson, Nancy  
Miller, Joseph



Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Pelletier, Arthur  
Smith, Marjorie  
Twombly, James

Rollo, Deanna  
Spang, Judith  
Wall, Janet

Rous, Emma  
Taylor, Katherine

### SULLIVAN

Cloutier, John  
Franklin, Peter  
Leone, Richard

Donovan, Thomas  
Harris, Joseph  
Phinizy, James

Ferland, Brenda  
Harris, Sandra  
Rodeschin, Beverly

Flint, Gordon Sr  
Jones, Constance

### NAYS 76

### BELKNAP

Ahern, Omer Jr  
Wendelboe, Fran

Allen, Janet

Boyce, Laurie

Rice, Thomas

### CARROLL

Babson, David Jr

Kenney, Bettie

Mock, Henry

### CHESHIRE

Laurent, John

Pratt, John

### COOS

Pratt, Leighton

### GRAFTON

Gilman, G Michael

Gionet, Edmond

Giuda, Robert

Ingbretson, Paul

### HILLSBOROUGH

Adams, Jarvis  
Balcom, John  
Christiansen, Lars  
Hagan, Barbara  
Luebker, Bernard  
Rowe, Robert  
Vaillancourt, Steve

Allen, Timothy  
Bergeron, Jean-Guy  
Dionne, Kimberley  
Hall, Charles  
Mooney, Maureen  
Slocum, Lee  
Wheeler, James

Artz, Lawrence  
Bouchard, David  
Elliott, Larry  
Hansen, Ryan  
O'Brien, Lori  
Souza, Kathleen

Balboni, Michael  
Buhlman, David  
Gibson, John  
Hinkle, Peyton  
Pappas, Marc  
Stepanek, Stephen

### MERRIMACK

Daniels, Eric  
Marple, Richard

Field, William  
Nutter, Edward

Foley, Albert  
Oliver, James

Kennedy, Richard  
Soltani, Tony

### ROCKINGHAM

Allen, Mary  
Camm, Kevin  
Letourneau, Robert  
Quandt, Matthew  
Wiley, Robert

Belanger, Ronald  
DiFruscia, Anthony  
McEachern, Paul  
Smith, Donald

Bicknell, Elbert  
Itse, Daniel  
McMahon, Charles  
Waterhouse, Kevin

Cady, Harriet  
Kobel, Rudolph  
Putnam, Ed II  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Easson, Timothy  
Scott, David

Bemis, Alan  
Harrington, Michael  
Woods, Phyllis

Bickford, David  
Hollinger, Jeffrey

Cataldo, Sam  
Newton, Clifford

### SULLIVAN

None

and the majority committee report was adopted.  
Ordered to third reading.

### SPECIAL ORDER

Rep. Welch moved that **HB 1360-FN**, including "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide, be made a Special Order to the end of today's Regular Calendar.  
Adopted.

**REGULAR CALENDAR (CONT'D.)**

**HB 1162**, relative to school district policies on bullying. **OUGHT TO PASS WITH AMENDMENT**  
 Rep. Debra Naro for Education: There is broad agreement among the experts that the single most important thing a school can do to prevent bullying is to have a clear policy to which staff, pupils, and parents are committed. HB 1162, as amended, requires school districts to notify parents or legal guardians, on an annual basis, of the district's policies on bullying and the appeals process available at the local and state levels. It further requires that parents or legal guardians, of the pupils involved, receive written notification of bullying incidents and written disposition of local school board decisions when rendered. The Education Committee recognizes that bullying may result in serious implications for victims, families, and the school community. In 2002, a report released by the U.S. Secret Service concluded that bullying played a significant role in many school shootings and that efforts should be made to eliminate bullying behavior. Consequently, bullying needs to be dealt with swiftly and with due attention to procedural fairness. It is crucial that parents be aware of bullying incidents to ensure proper action has been taken to remedy the situation and protect their children's safety and wellbeing. Open communication and cooperation between key partners which include parents or guardians, are important factors in prevention and intervention efforts and ensuring the safety of the entire school community. Vote 17-0.

**Amendment (0748h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Pupil Safety and Violence Prevention. RSA 193-F:3 is repealed and reenacted to read as follows:  
 193-F:3 Pupil Safety and Violence Prevention.

I.(a) Each local school board shall adopt a pupil safety and violence prevention policy which addresses pupil harassment, also known as "bullying", and which is consistent with the provisions of this chapter.

(b) At the beginning of each school year, school districts shall, in writing, inform the parent, legal guardian, or other person responsible for the welfare of the pupil of the district's pupil safety and violence prevention policy and the appeals process available at the local and state levels.

II.(a) Any school employee, or employee of a company under contract with a school or school district, who has witnessed or has reliable information that a pupil has been subjected to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response shall report such incident to the principal, or designee who shall in turn report the incident to the superintendent and the school board.

(b) The principal, or designee, shall in writing and by first-class mail, report the occurrence of any incident described in this paragraph to the parent or legal guardian of all pupils involved within 48 hours of the occurrence of such incident. The notice shall advise the individuals involved of their due process rights including the right to appeal to the state board of education.

III. The remedy required in paragraph II shall be defined by the local school board and the local school board shall, in writing, notify all parties involved of its decision. If the remedies outlined in the school board's policy are exhausted, the aggrieved party shall have the right to appeal the decision to the state board of education. The state board of education shall, in writing, notify all parties involved of its decision. The local school board may provide opportunities for educators to have the knowledge and skills to prevent and respond to acts covered by this chapter.

IV. A school employee, or employee of a company under contract with a school or school district, who has reported violations under this chapter to the principal, or designee or who has intervened under paragraph II, shall be immune from any cause of action which may arise from the failure to remedy the reported incident.

2 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill requires school districts to notify the parents or legal guardians of the district's policies on bullying and requires that a written report of any bullying incidents be sent by mail to the parent or legal guardian of the pupils involved.

Adopted.

Report adopted and ordered to third reading.

**HB 1226-L**, establishing a debt retirement fund in the Governor Wentworth regional school district. **WITHOUT RECOMMENDATION**

Rep. Babson moved Ought to Pass and spoke in favor.

Rep. Stephen L'Heureux spoke in favor.

Adopted and ordered to third reading.

### SPECIAL ORDER

**HB 1419**, relative to the dispensing of non-controlled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter E. Bergin for Executive Departments and Administration: Currently, only a licensed physician can prescribe drugs to be dispensed at a public health clinic. This bill will enable advanced registered nurse practitioners under written protocol at a public health clinic to prescribe from the formulary pursuant to RSA 326-B:10, II, which is approved by the department of health and human services. In addition, the advanced registered nurse practitioner assumes supervisory responsibility for each registered nurse's activities and the specific names are mentioned. A written copy of the protocol showing the date it was approved by the department of health and human services will be required to be kept at the clinic at all times. Vote 14-1.

### Amendment (0476h)

Amend the bill by replacing section I with the following:

I Prescription Drugs; Clinics under Contract; Dispensing by Registered Nurses; ARNPs Added.  
Amend RSA 318:42, VII(a) to read as follows:

(a) The drugs are dispensed under a written protocol established by a licensed physician *or by an advanced registered nurse practitioner prescribing from the formulary pursuant to RSA 326-B:10, II*, and approved by the department of health and human services which provides for responsible supervision over the activities in question and mentions the name of each registered nurse for whom the physician *or advanced registered nurse practitioner* is assuming supervisory responsibility. A written copy of the protocol showing the date it was approved by the department of health and human services shall be kept at the clinic at all times and shall be made available during any inspection conducted under RSA 318:8.

Adopted.

Report and ordered to third reading.

### REGULAR CALENDAR (CONT'D.)

**HB 1424-FN-A**, establishing a pharmaceutical commission and making an appropriation therefor. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS.**

Rep. Peter E. Bergin for the Majority of Executive Departments and Administration: The original bill was to establish a three person pharmaceutical commission to purchase drugs in order to lower the cost to consumers. The subcommittee felt that lowering prescription drug cost was a very important issue. However, after studying the proposal, the committee felt the issue warranted further review by a joint study commission with representatives from the pharmaceutical industry. The commission will report back by November 1, 2004. This will enable legislation to be filed for the 2005 session. Vote 11-6.

Rep. John DeJoie for the Minority of Executive Departments and Administration: The cost of prescription drugs is a major problem for New Hampshire citizens, especially our senior citizens. It is estimated that 80% of seniors take at least one prescription medication every day, spending an average of \$480 per year in out-of-pocket costs. Yet New Hampshire lacks a comprehensive strategy for lowering the cost of prescription drugs. House Bill 1424 attempts to fill the gap by establishing a state commission, modeled on the liquor commission, to negotiate for lower priced prescription drugs to be distributed to New Hampshire pharmacies. The goal is to provide the lowest possible cost for wholesale prescription drugs, while maintaining proper health and safety controls. At its most basic level, this is a very simple bill: if the State of New Hampshire can negotiate with liquor companies for cheap alcohol, we can negotiate with pharmaceutical companies for cheaper prescription drugs.

### Majority Amendment (0742h)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a pharmaceutical study commission to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) One representative appointed by the New Hampshire Independent Pharmacist Association.
- (d) One representative appointed by the National Association of Chain Drug Stores.
- (e) One representative appointed by the American Pharmaceutical Association.
- (f) One representative appointed by the Pharmaceutical Research and Manufacturers of America.
- (g) One representative appointed by the American Association of Retired Persons.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study which drug plans have the greatest potential for savings, the methods for purchasing drugs from manufacturers, the methods of distribution, and any other issue necessary for the state to act as a wholesale distributor of prescription medication.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

AMENDED ANALYSIS

This bill establishes a commission to study direct purchasing of prescription medication by the state for resale to retail pharmacies.

Rep. DeJoie requested a roll call; sufficiently seconded.

The question being adoption of the majority amendment.

YEAS 205 NAYS 107

YEAS 205  
BELKNAP

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Dewhirst, Glenn	Fitzgerald, James	Flanders, Donald
Holbrook, Robert	Lawton, David	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Wendelboe, Fran
Whalley, Michael			

CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Kennedy, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

CHESHIRE

Fish, Douglas	Hunt, John	Royce, H Charles	Smith, Edwin
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COOS

Guay, Lawrence	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Tholl, John Jr	Woodward, David	

GRAFTON

Akins, Ralph	Alger, John	Barker, Robert	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ingbretson, Paul	Maybeck, Margie	Naro, Debra	Sorg, Gregory
Williams, Burton			

**HILLSBOROUGH**

Adams, Jarvis  
 Artz, Lawrence  
 Beaton, William  
 Bruno, Pierre  
 Chabot, Robert  
 Dionne, Kimberley  
 Fields, Dennis  
 Goyette, Peter Jr  
 Hawkins, Ken  
 Irwin, Anne-Marie  
 Lawrence, James  
 McHugh, Claire  
 O'Brien, Lori  
 Rowe, Robert  
 Spiess, Paul  
 Wheeler, James

Allan, Nelson  
 Balboni, Michael  
 Bergeron, Jean-Guy  
 Buhlman, David  
 Christensen, D L Chris  
 Dokmo, Cynthia  
 Fletcher, Richard  
 Graham, John  
 Haytayan, Harry Jr  
 Jasper, Shawn  
 Leach, Edward  
 Mercer, Robert  
 Pepino, Leo  
 Scanlon, Michael  
 Stepanek, Stephen  
 Wheeler, Robert

Allen, Timothy  
 Balcom, John  
 Bergin, Peter  
 Carter, Jeffrey  
 Christiansen, Lars  
 Drisko, Richard  
 Gargas, Carolyn  
 Hall, Charles  
 Hinkle, Peyton  
 Kurk, Neal  
 Lessard, Rudy  
 Mooney, Maureen  
 Price, Pamela  
 Slocum, Lee  
 Tahir, Saghir

Arnold, Thomas Jr  
 Batula, Peter  
 Brundige, Robert  
 Carter, Mark  
 Desmarais, Vivian  
 Elliott, Larry  
 Gibson, John  
 Hansen, Ryan  
 Hunter, Bruce  
 LaFlamme, Paul  
 Luebker, Bernard  
 Mosher, William  
 Reeves, Sandra  
 Souza, Kathleen  
 Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
 Fraser, Leo Jr  
 Kenison, Leon  
 Lockwood, Priscilla  
 Oliver, James

Daniels, Eric  
 Hager, Elizabeth  
 Kennedy, Richard  
 MacKay, James  
 Soltani, Tony

Field, William  
 Hess, David  
 L'Heureux, Stephen  
 McCormick, Tom

Foley, Albert  
 Jacobson, Alf  
 Leber, William  
 Nutter, Edward

**ROCKINGHAM**

Allen, Mary  
 Camm, Kevin  
 Dodge, Robert  
 Francoeur, Sheila  
 Gould, Kenneth  
 Hughes, Daniel  
 Johnson, Robert  
 Langone, John  
 McMahon, Charles  
 Packard, Sherman  
 Rausch, James  
 Smith, Paul  
 Weare, E Albert  
 Winchell, George

Belanger, Ronald  
 Carson, Sharon  
 Dowd, John  
 Gilbert, Karl  
 Griffin, Mary  
 Ingram, Russell  
 Johnson, Rogers  
 Letourneau, Robert  
 Morris, Richard  
 Priestley, Anne  
 Robertson, Carl  
 Stone, Joseph  
 Welch, David  
 Zolla, William

Bicknell, Elbert  
 Dalrymple, Janeen  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Introne, Robert  
 Kelley, Jane  
 Major, Norman  
 Noyes, Richard  
 Putnam, Ed II  
 Roessner, Kurt  
 Tufts, J Arthur  
 Weyler, Kenneth

Cady, Harriet  
 DiFrancia, Anthony  
 Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Itse, Daniel  
 Kobel, Rudolph  
 McKinney, Betsy  
 O'Neil, Michael  
 Quandt, Matthew  
 Smith, Donald  
 Waterhouse, Kevin  
 Wiley, Robert

**STRAFFORD**

Albert, Russell  
 Cataldo, Sam  
 Hollinger, Jeffrey  
 Scott, David

Bemis, Alan  
 Dunlap, Patricia  
 Knowles, William  
 Twombly, James

Bickford, David  
 Easson, Timothy  
 Musler, George  
 Woods, Phyllis

Brown, Julie  
 Harrington, Michael  
 Newton, Clifford

**SULLIVAN**

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

**NAYS 107****BELKNAP**

None

**CARROLL**

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Laurent, John	Meader, David	Mitchell, McKim	Parkhurst, Henry
Pratt, John	Richardson, Barbara	Robertson, Timothy	Tilton, Anna

**COOS**

Mears, Edgar	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Ham, Bonnie	Hammond, Lee
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin	Bouchard, David	Brassard, Paul	Buckley, Raymond
Clemons, Jane	Cote, David	Cote, Peter	Craig, James
Emerton, Larry	Gorman, Mary	Hagan, Barbara	Infantine, William
Jean, Claudette	Johnson, Lionel	Kopka, Angeline	Lasky, Bette
Malloy, Chris	Movsesian, Lori	Palangas, Eric	Pappas, Christopher
Pappas, Marc	Pilotte, Maurice	Shaw, Barbara	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia		

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Davis, Frank
DeJoie, John	DeStefano, Stephen	French, Barbara	Gile, Mary
Hamm, Christine	Marple, Richard	Maxfield, Roy	Osborne, Jessie
Owen, Derek	Perkins, Randy	Potter, Frances	Rush, Deanna
Seldin, Gloria			

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberley	Clark, Vivian	Coes, Betsy
Dumaine, Dudley	Langley, Jane	McEachern, Paul	Norelli, Terie
Pantelakos, Laura	Shultis, Elizabeth	Splaine, James	

**STRAFFORD**

Berube, Roger	Callaghan, Frank	Creteau, Irene	Grassie, Anne
Hofemann, Roland	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Cloutier, John	Donovan, Thomas	Ferland, Brenda	Franklin, Peter
Harris, Joseph	Harris, Sandra	Phinazy, James	

and the majority amendment was adopted.

Majority committee report adopted and ordered to third reading.

**HB 698-FN, relative to electronic toll collections. OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: This bill defines the State's relationship with the Interstate Agency Group (IAG) that sets standards for EZ Pass. The original bill dealt with a fine structure and administrative procedure for motorists who evade tolls in the EZ Pass gates. When the bill arrived at the Finance Committee, it was revealed that the annual operating costs for EZ Pass were more than \$7 million per year. When we initiated this program three years ago, DOT's intent was to pay for those costs by eliminating tokens and their discount. The Governor and Council disapproved. To protect the financial integrity of the Turnpike System and to avoid the need to increase tolls, the Committee felt that we needed both to pay for the operating costs and to provide incentives to use EZ Pass. The resulting amendment gives a 20% discount to token users, a 40% dis-

count to EZ Pass users with two axles, and a 20% discount to EZ Pass users with more than 2 axles or more than 4 wheels. EZ Pass will speed traffic through tolls so that no new gates are needed. The Committee's amendment keeps the adoption of EZ Pass revenue neutral to the Turnpike System. Vote 15-5.

### Amendment (0541h)

Amend the bill by replacing section 3 with the following:

3 New Section; Suspension for Evasion of Electronic Toll Collection System. Amend RSA 263 by inserting after section 56-e the following new section:

263:56-f Suspension for Evasion of Electronic Toll Collection System.

I. Upon receiving a report from the commissioner of the department of transportation or designee, that the owner of a vehicle, as defined in RSA 236:31, has violated the terms of RSA 236:31, the director shall notify the owner in writing by first class mail that the owner's driving privileges, registration, resident plates, or motor vehicle registration privileges may be suspended on the date which is 30 days from the date of notification unless the toll and any administrative fees assessed by the department of transportation are paid. The director shall also notify the owner that he or she may request an administrative hearing before the suspension takes effect. A request for a hearing shall be in writing. A request for a hearing received by the division more than 30 days from the date the notice is issued shall be denied as untimely.

II.(a) The director shall, pursuant to RSA 541-A, adopt by rule, a uniform administrative fine schedule for each separate violation that shall not exceed:

(1) \$250 for a first offense.

(2) \$500 for a second offense within a 12-month period.

(3) \$1,000 for a third or subsequent offense within a 12-month period.

(b) No fine shall take effect unless approved by the commissioner. The commissioner shall have the authority to modify the amount of the fine assessed. Notwithstanding any other law to the contrary, all administrative fines collected under this section shall be deposited into the turnpike fund.

III. The director shall adopt rules under RSA 260:5 establishing a uniform administrative hearing process.

IV.(a) The scope of the hearing shall be limited to:

(1) Whether the owner has paid all tolls and administrative fees owed to the department of transportation;

(2) Whether the report from the department of transportation correctly identified the owner of the vehicle at the time of the incident; or

(3) Whether the vehicle, identified as having violated the duty to pay a toll, had been reported as taken without the owner's consent, pursuant to RSA 262:12, or stolen to a law enforcement agency in a timely manner.

(b) A notice of violation may be based in whole or in part upon inspection of any photographic or other recorded image of a vehicle using the bridge or highway subject to a toll or charge. The written certification of any person employed by or under contract with the department of transportation that the notice is so based shall be admissible in any hearing held hereunder and shall create a rebuttable presumption that the owner is liable for such violation.

V. The driving privileges, resident plates, and motor vehicle registration of any vehicle, if applicable, of an owner shall be reinstated upon:

(a) Notice to the director from the department of transportation that all tolls, fees, and fines have been paid; and

(b) Payment to the director of a fee of \$100 for license or driving privilege restoration, and \$25 for each motor vehicle registration restored. Such restoration fees shall be in lieu of any other reinstatement fees. All funds received under this subparagraph shall be deposited in the highway fund.

Amend the bill by inserting after section 4 the following and renumbering the original sections 5 and 6 to read as 6 and 7, respectively:

5 Toll Criteria; Discounts. Amend RSA 237:11, V to read as follows:

V. In establishing tolls or charges pursuant to RSA 237:9, ~~[24 or 40]~~ **RSA 237:24, or RSA 237:40**, the governor and council shall discount or reduce the established tolls on any of the turnpikes in the system ~~[for those motor vehicles that participate in the regional electronic toll collection system]~~ **as follows:**

*(a) For a motor vehicle with a maximum of 2 axles and 4 tires, the discount shall be:*

*(1) Twenty percent if payment is made by use of turnpike system tokens.*

*(2) Forty percent if payment is made through the regional electronic toll collection system.*

*(b) For a motor vehicle with more than 2 axles, or more than 4 tires, that is identified to a New Hampshire account in the regional electronic toll collection system, the discount shall be 20 percent if payment is made through the regional electronic toll collection system.*

*(c) If the application of a discount causes the last digit in the calculated toll fare to be a fraction of a cent, the fare shall be rounded up to the next whole cent.*

#### AMENDED ANALYSIS

This bill establishes a procedure for violations of the electronic toll collection system. This bill also establishes toll discounts for classes of motor vehicles using the regional electronic toll collection system and using tokens.

Reps. Chris Christensen and Gibson spoke against.

Reps. Daniel Eaton and Weyler spoke in favor and yielded to questions.

Rep. Chris Christensen requested a roll call; sufficiently seconded.

The question being adoption of the committee amendment.

#### YEAS 245 NAYS 74

##### YEAS 245

##### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Nedeau, Stephen  
Wendelboe, Fran

Allen, Janet  
Dewhirst, Glenn  
Pilliod, James  
Whalley, Michael

Bartlett, Gordon  
Flanders, Donald  
Rice, Thomas

Boyce, Laurie  
Holbrook, Robert  
Thomas, John

##### CARROLL

Brown, Carolyn  
Patten, Betsey

Dickinson, Howard  
Philbrick, Donald

Kenney, Bettie  
Stevens, Stanley

McConkey, Mark

##### CHESHIRE

Allen, Peter  
Fish, Douglas  
Parkhurst, Henry  
Royce, H Charles  
Webber, Amy

Dunn, James  
Hunt, John  
Pratt, John  
Slack, Pamela

Eaton, Daniel  
Meader, David  
Richardson, Barbara  
Smith, Edwin

Espiefs, Peter  
Mitchell, McKim  
Robertson, Timothy  
Tilton, Anna

##### COOS

King, Frederick  
Richardson, Herbert  
Woodward, David

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

##### GRAFTON

Akins, Ralph  
Cooney, Mary  
Eaton, Stephanie  
Ham, Bonnie  
Nordgren, Sharon  
Sorg, Gregory

Barker, Robert  
Densmore, Edward  
Gilman, G Michael  
Hammond, Lee  
Scovner, Nancy  
Williams, Burton

Benn, Bernard  
Diamond, Estelle  
Gionet, Edmond  
Ingretson, Paul  
Sokol, Hilda

Bleyler, Ruth  
Dudley, Terri  
Giuda, Robert  
Maybeck, Margie  
Solomon, Peter

##### HILLSBOROUGH

Adams, Jarvis  
Bergin, Peter  
Carter, Jeffrey  
Craig, James

Arnold, Thomas Jr  
Bouchard, David  
Carter, Mark  
Desmarais, Vivian

Baroody, Benjamin  
Bruno, Pierre  
Chabot, Robert  
Dionne, Kimberley

Beaton, William  
Buckley, Raymond  
Christiansen, Lars  
Dokmo, Cynthia



Drisko, Richard  
Gargas, Carolyn  
Infantine, William  
Kurk, Neal  
Luebkert, Bernard  
Palangas, Eric  
Pilotte, Maurice  
Scanlon, Michael  
Stepanek, Stephen  
Wheeler, Robert

Elliott, Larry  
Hansen, Ryan  
Irwin, Anne-Marie  
Lawrence, James  
Malloy, Chris  
Pappas, Christopher  
Price, Pamela  
Shaw, Barbara  
Sullivan, Francis

Emerton, Larry  
Haytayan, Harry Jr  
Jean, Claudette  
Leach, Edward  
McRae, Karen  
Pappas, Marc  
Reeves, Sandra  
Slocum, Lee  
Sullivan, Peter

Fletcher, Richard  
Hunter, Bruce  
Johnson, Lionel  
Lessard, Rudy  
O'Brien, Lori  
Pepino, Leo  
Rowe, Robert  
Spiess, Paul  
Tahir, Saghir

### MERRIMACK

Anderson, Eric  
Daniels, Eric  
Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
MacKay, James  
Osborne, Jessie  
Rush, Deanna

Blanchard, Elizabeth  
Davis, Frank  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy  
Owen, Derek  
Seldin, Gloria

Bouchard, Candace  
DeJoie, John  
French, Barbara  
Hess, David  
Leber, William  
McCormick, Tom  
Perkins, Randy

Brueggemann, Donald  
Field, William  
Gile, Mary  
Jacobson, Alf  
Lockwood, Priscilla  
Oliver, James  
Potter, Frances

### ROCKINGHAM

Belanger, Ronald  
Casey, Kimberley  
Dowd, John  
Flanders, John R  
Gleason, John  
Hughes, Daniel  
Johnson, Rogers  
Langone, John  
McMahon, Charles  
O'Neil, Michael  
Putnam, Ed II  
Shultis, Elizabeth  
Tufts, J Arthur  
Weyler, Kenneth

Bicknell, Elbert  
Clark, Vivian  
Doyle, Christopher  
Francoeur, Sheila  
Gould, Kenneth  
Ingram, Russell  
Kelley, Jane  
Letourneau, Robert  
Morris, Richard  
Packard, Sherman  
Rausch, James  
Smith, Donald  
Waterhouse, Kevin  
Wiley, Robert

Blanchard, MaryAnn  
Coes, Betsy  
Dumaine, Dudley  
Gilbert, Karl  
Griffin, Mary  
Introne, Robert  
Kobel, Rudolph  
Major, Norman  
Norelli, Terie  
Pantelakos, Laura  
Robertson, Carl  
Smith, Paul  
Weare, E Albert  
Zolla, William

Carson, Sharon  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Johnson, Robert  
Langley, Jane  
McKinney, Betsy  
Noyes, Richard  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Welch, David

### STRAFFORD

Bemis, Alan  
Callaghan, Frank  
Grassie, Anne  
Kaen, Naida  
Musler, George  
Rous, Emma  
Taylor, Katherine

Berube, Roger  
Cataldo, Sam  
Harrington, Michael  
Keans, Sandra  
Newton, Clifford  
Schmidt, Peter  
Taylor, Kathleen

Bickford, David  
Creteau, Irene  
Hollinger, Jeffrey  
Knowles, William  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Brown, Julie  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Rollo, Deanna  
Spang, Judith  
Woods, Phyllis

### SULLIVAN

Cloutier, John  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

### NAYS 74 BELKNAP

Fitzgerald, James

Lawton, David

Russell, David

### CARROLL

Babson, David Jr  
Olimpio, J Lisbeth

Derby, Mark

Morrow, Harry

Mock, Henry

**CHESHIRE**

Laurent, John

**COOS**

Guay, Lawrence

**GRAFTON**

Almy, Susan

Naro, Debra

**HILLSBOROUGH**

Allan, Nelson

Allen, Timothy

Artz, Lawrence

Balboni, Michael

Balcom, John

Batula, Peter

Bergeron, Jean-Guy

Brassard, Paul

Brundige, Robert

Buhlman, David

Christensen, D L Chris

Clemons, Jane

Cote, David

Cote, Peter

Crane, Elenore Casey

Fields, Dennis

Gibson, John

Gorman, Mary

Goyette, Peter Jr

Graham, John

Hagan, Barbara

Hall, Charles

Harrington, Paul

Hawkins, Ken

Hinkle, Peyton

Holden, Randolph

Jasper, Shawn

Kopka, Angeline

LaFlamme, Paul

Lasky, Bette

McHugh, Claire

Mercer, Robert

Mooney, Maureen

Mosher, William

Movsesian, Lori

Souza, Kathleen

Sweeney, Cynthia

Vaillancourt, Steve

Wheeler, James

**MERRIMACK**

DeStefano, Stephen

Kennedy, Richard

Marple, Richard

Nutter, Edward

Soltani, Tony

**ROCKINGHAM**

Allen, Mary

Cady, Harriet

Camm, Kevin

DiFruscia, Anthony

Dodge, Robert

Headd, James

Itse, Daniel

Katsakiores, George

McEachern, Paul

Quandt, Matthew

Splaine, James

Winchell, George

**STRAFFORD**

Albert, Russell

Easson, Timothy

Hofemann, Roland

Scott, David

Twombly, James

**SULLIVAN**

Flint, Gordon Sr

and the committee amendment was adopted.

Report adopted and ordered to third reading.

Rep. Alger did not vote and wished to be recorded in favor.

**HB 1188**, relative to indoor air quality in public schools. **OUGHT TO PASS WITH AMENDMENT**  
 Rep. Kenneth L. Weyler for Finance: The bill provides financial incentives to school districts that incorporate a higher standard in the design of air handling systems in new construction. It also adds a requirement for school districts to submit a written plan for maintenance of school buildings constructed with state aid. Amendments added in the Finance Committee changed the incentive grant from 5% to 1 ½ % to more clearly reflect actual costs, and added detail to the required maintenance plan. Until the goals and the costs of this program are better determined through experience, the committee felt it best that the total financial grant be limited to \$100,000 annually. Vote 18-2.

**Amendment 0572(h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

Amend the bill by replacing all after the enacting clause with the following:

I New Paragraph; School Building Aid; Approval of Plans. Amend RSA 198:15-b by inserting after paragraph I the following new paragraph:

I-a. A school district, or other entity listed in paragraph I of this section, shall be entitled to receive an additional grant equal to 1.5 percent of the total construction costs. Not more than \$100,000 in any fiscal year in additional grant moneys shall be awarded. To be eligible for additional grant moneys, construction projects, as built, shall comply with all of the following requirements:

(a) Achieve indoor air quality equal to or better than the standards for clean indoor air in state buildings established pursuant to RSA 10-B:3, II. Achievement shall be demonstrated by providing a copy of the results of indoor air quality testing performed within 6 months of the date of building occupancy or the date of substantial project completion, whichever is later. The number of samples taken shall be sufficient to reasonably conclude that the standards are met throughout the entire new or renovated portions of the facility. The report of the air quality testing shall indicate the specific location of all samples taken including height above the floor and shall be signed by a certified industrial hygienist.

(b) Achieve total energy use that is at least 15 percent below the maximum allowable energy use for the building under the current state energy code. Achievement shall be demonstrated by a report of energy use calculations using a method provided by the United States Department of Energy or other method of calculation acceptable to the department of education. The report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

(c) Achieve a 2 percent minimum daylight factor of uniformly distributed daylighting, with no direct sunlight penetration, in 75 percent of all classroom space. The daylight factor is expressed as a percentage of daylight at the task level, measured in foot candles or lux, to the total amount of outdoor daylight. Achievement shall be demonstrated by a report signed and stamped by an electrical engineer licensed to practice in the state of New Hampshire. The report shall indicate the daylight factor in each classroom in new or renovated portions of the facility.

(d) Perform commissioning of all heating, ventilation, and air conditioning (HVAC) systems and all life safety systems. The school district or entity shall provide a commissioning report which describes the commissioning process used and which indicates that all systems are performing according to all design specifications. The commissioning report shall be signed and stamped by a mechanical engineer licensed to practice in the state of New Hampshire.

2 School Building Aid; Approval of Plans. Amend RSA 198:15-c to read as follows:

198:15-c Approval of Plans, Specifications and Costs of Construction or Purchase.

**I.** A school district maintaining approved schools, desiring to avail itself of the grants herein provided shall have the plans, specifications, and cost estimates for school plant construction or proposals for the purchase of school buildings, or both, and the costs for them approved by the state board prior to the start of construction. For this purpose the district shall submit its plans, specifications, cost and purchase estimates in writing to the state board on such forms as the board prescribes. Application for school building aid shall be submitted before January 1 of each year in order to be eligible for school building aid in the fiscal year following the year of submittal. The state board shall not approve the plans, specifications, cost or purchase estimates, if in the board's judgment the facilities planned will not adequately meet the educational requirements, or if its cost estimates are excessive or unreasonable. The state board shall not approve the plans, specifications, cost or purchase estimates if in the board's judgment the proposed construction or purchase is in conflict with effective statewide planning. Necessary costs of the purchase of school buildings may be determined by any recognized method of real estate appraisal with appropriate adjustments for remodeling or other expenditures. Upon approval of the construction or purchase, or both, by the state board of education, the school district shall be entitled to receive an annual grant as provided herein.

**II.** *In addition to the requirements of paragraph I, each school district shall, submit a written maintenance plan describing in detail how the school district will maintain facilities constructed with state aid. The required maintenance plan shall provide the following information:*

*(a) The manner in which the following building services are or will be provided using in-house staff, contracted services, or a combination of both. For work performed by in-house staff, an indication of the staffing level expressed as full-time equivalent positions for:*

- (1) Daily facility cleaning.*
- (2) Grounds maintenance.*
- (3) Refuse removal.*
- (4) Snow removal.*
- (5) Minor maintenance and repair.*
- (6) Pest management.*
- (7) Periodic equipment servicing.*

*(b) The average amount of space, in square feet, assigned to each custodian for daily cleaning.*

*(c) The process for reporting, recording, verifying, and prioritizing building problems, how corrective work is assigned and performed, and how the success of corrective actions is determined.*

*(d) The process for tracking and analyzing recurring problems.*

*(e) The process for scheduling and completing preventive maintenance services and inspections on installed equipment and major building systems including, but not limited to heating, ventilation, and air conditioning, (HVAC), life safety, elevators, plumbing, roof, windows and doors, and kitchen appliances.*

*(f) Custodial and/or maintenance staff increases or reductions that result from the project.*

*(g) The training program for employees who will be required to operate and maintain new equipment installed through the construction project.*

*(h) A statement of assurance, signed by the superintendent of schools or the chair of the school board, which indicates that the district intends to maintain and service all installed equipment according to the manufacturer's instructions.*

3 Repeal. RSA 198:15-b, I-a, relative to additional grant moneys for certain school construction projects, is repealed.

4 Effective Date.

I. Section 3 of this act shall take effect July 1, 2011.

II. The remainder of this act shall take effect 60 days after its passage.

Adopted.

Report adopted and ordered to third reading.

#### **HB 1207-FN-A, relative to a Global War on Terrorism operations service bonus payment. OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: This bonus program continues New Hampshire's tradition of prior awards to our servicemen in the recent Vietnam and Persian Gulf Wars. Under the bill a bonus payment will be made to New Hampshire Veterans who receive the Global War on Terrorism expeditionary medal (Presidential Executive Order #13289). The Finance Committee amendment: 1) sets the bonus at \$100; 2) removes the contingency which determined commencement of payment when the cessation of operations has been declared by the Secretary of Defense; and 3) changes the effective date to "upon passage". The committee was unable to calculate specifically the cost. However, based on the Persian Gulf War bonus medal awards at 542 over a long period, it was deemed a modest expense. Vote 19-0.

#### **Amendment (0726h)**

Amend RSA 115-A:18 as inserted by section 1 of the bill by replacing it with the following:

115-A:18 Bonus Payment. In recognition of the services performed by the persons designated as eligible under RSA 115-A:16, the state treasurer, when such names are certified to the state treasurer as provided in RSA 115-A:17, and when application is made therefor, shall pay to each such qualified person the sum of \$100; and shall take such formal receipt as the state treasurer shall prescribe.

Amend the bill by replacing all after section 1 with the following:

2 Effective Date. This act shall take effect upon its passage.

Adopted.

Report adopted and ordered to third reading.

#### **HB 1216-FN-A, making an appropriation to the small business innovation research support program. INEXPEDIENT TO LEGISLATE**

Rep. Frederick W. King for Finance: This bill would require an appropriation of \$200,000 for support of economic development. The Finance Committee felt that the budget as passed contained sufficient funds for such programs in the biennium. This program, while worthwhile is better addressed in the fiscal years 2006-2007 budget. Vote 15-4.

Adopted.

#### **HB 1339-FN-A-L, relative to distribution of tobacco settlement funds. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Rogers J. Johnson for the Majority of Finance: This bill in its original format would have restored \$3 million to the tobacco use prevention fund during the current budget thus undoing an

aspect of the budget passed in September of 2003. The first amendment the committee reviewed changed the distribution of the tobacco settlement funds to \$3 million to the tobacco use prevention fund and 8.9% interest of those amounts over the \$3 million to be distributed to the counties starting in the next biennial budget. The final amendment removed the funds going to the tobacco use prevention fund, settling for 8.91% of the tobacco settlement fund going to the counties, also beginning in the next biennial budget. The committee rejected the notion of negotiating any aspect of the next biennial budget during the existing budget. This is unwise given the current fiscal condition of the state. To place a marker stamped "Payment Due" in the 2006-2007 budget when we do not now know what our obligations will be does not make fiscal sense. Finally, the committee rejected the claim that the requested funds are monies due the counties in compliance with the tobacco Master Settlement Agreement. Based upon the testimony of a representative from the Attorney General's office, the counties do not have standing to make such a claim. Vote 12-9.

Rep. Frederick W. King for the Minority of Finance: The Tobacco Settlement Funds received by the state should be allocated to the counties in proportion to the counties' share of providing services to those with tobacco related illnesses. The settlement money is partial compensation for the funds that county property taxpayers expend to provide services to tobacco users under the Medicaid system. An in-depth study determined that the present discount value of county nursing home expenditures during 1970-1998 was equal to 8.91% of the present discounted value of the state's total computable Medicaid spending during the same time period. This amendment to HB 1339 will dedicate 8.91% of the state's settlement funds to the counties beginning in 2006. Addressing this issue now will guide budget writers as they begin the drafting of the 2006-2007 state budget this fall.

Reps. King spoke against.

Rep. Densmore spoke against and yielded to questions.

Reps. Rogers Johnson and Kurk spoke in favor.

Rep. Densmore requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

## YEAS 168 NAYS 154

### YEAS 168

#### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Thomas, John

Allen, Janet  
Dewhirst, Glenn  
Nedea, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Fitzgerald, James  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Holbrook, Robert  
Russell, David

#### CARROLL

Babson, David Jr  
McConkey, Mark  
Phillbrick, Donald

Brown, Carolyn  
Merrow, Harry  
Stevens, Stanley

Derby, Mark  
Mock, Henry

Dickinson, Howard  
Patten, Betsey

#### CHESHIRE

Fish, Douglas  
Smith, Edwin

Hunt, John

Laurent, John

Royce, H Charles

#### COOS

Stohl, Eric

Tholl, John Jr

Woodward, David

#### GRAFTON

Barker, Robert  
Giuda, Robert

Dudley, Terri  
Ingbretson, Paul

Eaton, Stephanie

Gilman, G Michael

#### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Beaton, William

Allan, Nelson  
Balboni, Michael  
Bergeron, Jean-Guy

Allen, Timothy  
Balcom, John  
Bouchard, David

Arnold, Thomas Jr  
Batula, Peter  
Brassard, Paul

Brundige, Robert  
Christensen, D L Chris  
Desmarais, Vivian  
Emerton, Larry  
Goyette, Peter Jr  
Harrington, Paul  
Infantine, William  
Lawrence, James  
McRae, Karen  
Pappas, Marc  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, Robert

Bruno, Pierre  
Christiansen, Lars  
Dionne, Kimberley  
Fields, Dennis  
Graham, John  
Hawkins, Ken  
Jasper, Shawn  
Lessard, Rudy  
Mooney, Maureen  
Pepino, Leo  
Scanlon, Michael  
Tahir, Saghir

Carter, Jeffrey  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Hall, Charles  
Haytayan, Harry Jr  
Kurk, Neal  
Luebkert, Bernard  
Mosher, William  
Price, Pamela  
Slocum, Lee  
Vaillancourt, Steve

Carter, Mark  
Crane, Elenore Casey  
Elliott, Larry  
Gibson, John  
Hansen, Ryan  
Hunter, Bruce  
LaFlamme, Paul  
McHugh, Claire  
O'Brien, Lori  
Reeves, Sandra  
Souza, Kathleen  
Wheeler, James

### MERRIMACK

Anderson, Eric  
Hess, David  
Marple, Richard

Daniels, Eric  
Kennedy, Richard  
Oliver, James

Field, William  
L'Heureux, Stephen

Fraser, Leo Jr  
MacKay, James

### ROCKINGHAM

Allen, Mary  
Camm, Kevin  
Dodge, Robert  
Flanders, John Sr  
Gleason, John  
Holland, James Jr  
Itse, Daniel  
Major, Norman  
Noyes, Richard  
Rausch, James  
Tufts, J Arthur  
Wiley, Robert

Belanger, Ronald  
Carson, Sharon  
Dowd, John  
Francoeur, Sheila  
Griffin, Mary  
Hughes, Daniel  
Johnson, Rogers  
McKinney, Betsy  
O'Neil, Michael  
Roessner, Kurt  
Waterhouse, Kevin  
Winchell, George

Bicknell, Elbert  
Clark, Vivian  
Doyle, Christopher  
Gilbert, Karl  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
McMahon, Charles  
Packard, Sherman  
Smith, Paul  
Weare, E Albert  
Zolla, William

Cady, Harriet  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Headd, James  
Introne, Robert  
Letourneau, Robert  
Morris, Richard  
Quandt, Matthew  
Stone, Joseph  
Welch, David

### STRAFFORD

Albert, Russell  
Harrington, Michael  
Scott, David

Bemis, Alan  
Hollinger, Jeffrey  
Woods, Phyllis

Cataldo, Sam  
Musler, George

Easson, Timothy  
Newton, Clifford

Rodeschin, Beverly

### SULLIVAN

### NAYS 154

### BELKNAP

Flanders, Donald

Rice, Thomas

### CARROLL

Kenney, Bettie

Olimpio, J Lisbeth

### CHESHIRE

Allen, Peter  
Meader, David  
Richardson, Barbara  
Webber, Amy

Dunn, James  
Mitchell, McKim  
Robertson, Timothy

Eaton, Daniel  
Parkhurst, Henry  
Slack, Pamela

Espiefs, Peter  
Pratt, John  
Tilton, Anna

### COOS

Guay, Lawrence  
Pratt, Leighton

King, Frederick  
Richardson, Herbert

Mears, Edgar  
Theberge, Robert

Poulin, Richard

**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Gionet, Edmond
Ham, Bonnie	Hammond, Lee	Maybeck, Margie	Naro, Debra
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter
Sorg, Gregory	Williams, Burton		

**HILLSBOROUGH**

Baroody, Benjamin	Barry, J Gail	Bergin, Peter	Buckley, Raymond
Buhlman, David	Chabot, Robert	Clemons, Jane	Cote, David
Cote, Peter	Craig, James	Dokmo, Cynthia	Gargas, Carolyn
Gorman, Mary	Hagan, Barbara	Holden, Randolph	Irwin, Anne-Marie
Jean, Claudette	Johnson, Lionel	Kopka, Angeline	Lasky, Bette
Leach, Edward	Malloy, Chris	Martin, Mary Ellen	Mercer, Robert
Movsesian, Lori	Palangas, Eric	Pappas, Christopher	Pilotte, Maurice
Shaw, Barbara	Spies, Paul	Sullivan, Francis	Sullivan, Peter
Sweeney, Cynthia			

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Davis, Frank
DeJoie, John	DeStefano, Stephen	Foley, Albert	French, Barbara
Gile, Mary	Hager, Elizabeth	Hamm, Christine	Jacobson, Alf
Kenison, Leon	Leber, William	Lockwood, Priscilla	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Rush, Deanna	Seldin, Gloria
Soltani, Tony			

**ROCKINGHAM**

Blanchard, MaryAnn	Casey, Kimberly	Coes, Betsy	DiFruscia, Anthony
Dumaine, Dudley	Gould, Kenneth	Johnson, Robert	Kelley, Jane
Kobel, Rudolph	Langley, Jane	Langone, John	McEachern, Paul
Norelli, Terie	Pantelakos, Laura	Priestley, Anne	Putnam, Ed II
Robertson, Carl	Shultis, Elizabeth	Smith, Donald	Splaine, James
Weyler, Kenneth			

**STRAFFORD**

Berube, Roger	Bickford, David	Brown, Julie	Callaghan, Frank
Creteau, Irene	Dunlap, Patricia	Grassie, Anne	Hofemann, Roland
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Twombly, James	Wall, Janet	

**SULLIVAN**

Cloutier, John	Donovan, Thomas	Ferland, Brenda	Flint, Gordon Sr
Franklin, Peter	Harris, Joseph	Harris, Sandra	Jones, Constance
Leone, Richard	Phinizy, James		

and the majority committee report was adopted.

Rep. Bemis voted Yea and intended to vote Nay.

Rep. Alger did not vote and wished to be recorded in favor.

**HB 1423-FN**, relative to reimbursement of business travel expenses for judges and court reporters and stenographers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Frederick W. King for Finance: HB 1423 as amended makes revisions to a statute that has been law since 1901 when the Supreme Court was established. The revisions make Probate and District Court Justices equal to Supreme Court and Superior Court Justices regarding mileage payments. All Justices will now receive payments for traveling from their residence to their assigned court for mileage in excess of 25 miles. This replaces the existing law which allows only Supreme Court and Superior Court Justices mileage payments from the first mile of travel. The Court reported that the annual savings to the court would be \$100,000. Vote 16-4.

**Amendment (0716h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to reimbursement of travel expenses for judges.

Amend the bill by replacing all after the enacting clause with the following:

1 Supreme Court Justices; Expenses. RSA 490:18 is repealed and reenacted to read as follows:

490:18 Expenses. The justices shall be entitled to receive their actual personal expenses when absent from the court in the performance of their official duties. A justice who resides more than 50 miles from the court may be reimbursed for money paid for office rent. The justices shall not be reimbursed for mileage to commute from the justice's residence to the court except for any mileage in excess of 25 miles each way. A temporary justice shall be entitled to receive the same expenses and reimbursements, except for office rent, for the period of such service.

2 Superior Court Justices Expenses. RSA 491:6-a is repealed and reenacted to read as follows:

491:6-a Superior Court Justices Expenses. The justices shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The justices shall not be reimbursed for mileage to commute from the justice's residence to their assigned court except for any mileage in excess of 25 miles each way.

3 New Section; District Court Justices Expenses. Amend RSA 502-A by inserting after section 6-b the following new section:

502-A:6-c District Court Justices Expenses. The justices shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The justices shall not be reimbursed for mileage to commute from the justice's residence to their assigned court except for any mileage in excess of 25 miles each way.

4 New Section; Probate Court Judge's Expenses. Amend RSA 547 by inserting after section 22-a the following new section:

547:22-b Probate Court Judges Expenses. The judges shall be entitled to receive their actual personal expenses when absent from their assigned court in the performance of their official duties. The judges shall not be reimbursed for mileage to commute from the judge's residence to their assigned court except for any mileage in excess of 25 miles each way.

5 Effective Date. This act shall take effect 60 days after its passage.

**AMENDED ANALYSIS**

This bill states the criteria for the payment of expenses and mileage of supreme, superior, district, and probate court judges.

Adopted.

Report adopted and ordered to the third reading.

**SB 404**, establishing a committee to study the feasibility of providing statewide access to "Newslines for the Blind." **INEXPEDIENT TO LEGISLATE**

Rep. Pamela Price for Health, Human Services and Elderly Affairs: This bill proposes to establish a committee to study the feasibility of providing statewide access to "Newslines for the Blind". This service, operated by the National Federation of the Blind, offers telephone access to over 100 newspapers. The newspapers offer their content free of charge to the National Federation which converts the text to speech. This in turn is offered free of charge to qualifying sight impaired residents when a state subscribes to the service. There are currently 2000 residents who are eligible for this service and 10-12,000 legally blind in our state. The committee believes this is a terrific service which will keep the sight impaired connected to current events. The committee learned in testimony that funding is the only issue, the service is currently available and ready to be turned on "with the flip of a switch" if we can pay the \$26,000 fee. The committee felt it would be more quickly effective if it appointed an ad-hoc committee to pursue private funding sources. That committee has been appointed. The committee recommends ITL so we may continue work immediately on an ad-hoc basis on this worthwhile service for our sight impaired residents. Vote 8-5.

Adopted.

The House recessed at 11:55 a.m.

**RECESS**

**(Speaker Chandler in the Chair)**

The House reconvened at 1:00 p.m.



**REGULAR CALENDAR (CONT'D.)****HB 1220-FN, relative to banning partial birth abortion. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS**

Rep. Bette R. Lasky for the Majority of Judiciary: This bill is yet another attempt to pass legislation ruled unconstitutional by the US Supreme Court as indicated in Stenberg v. Carhart in 2000. This bill refers to a ban on so called partial birth abortions, a procedure which does not exist in medical terminology. The specific medical procedure, a D and X, can be used throughout pregnancy. Further, the bill lacks an exception to protect a woman's life and health even though those exceptions have been repeatedly constitutionally required. Similar legislation recently passed by the US Congress was immediately enjoined by three separate federal courts for similar flaws previously determined to be unconstitutional. On this basis, the majority of the Judiciary Committee believes it is our duty to uphold the constitution. Vote 8-5.

Rep. Gregory M. Sorg for the Minority of Judiciary: This bill proposed to criminalize a practice considered by many to be barbaric by which an infant in utero is turned around in order that it can be delivered feet first until all but his or her head has been born, at which point, instead of completing the delivery of the last four or so inches of the infant consisting solely of the head, the base of the skull is punctured with a sharp instrument and the infant killed. The majority objects to criminalizing the physician's act of stabbing an infant to death in this manner, instead of completing the last twenty percent of its delivery, on the ground that the bill contains no exception for cases where the procedure is necessary to protect the life or health of the woman. The minority believes that, even were the medical evidence not conclusive that it is far more dangerous to a woman's life or health to deliberately cause a feet-first rather than a head-first delivery and that there is no danger whatsoever in delivering the head after having already delivered the other eighty percent of the infant's length, common sense would tell us that this is so. It is integral to the constitutional policy-making authority of the legislature to reflect common sense, which tells us also that the insertion of a "life or health of the woman" exception in this bill would serve no purpose other than to provide the physician with a giant loophole by which to self-immunize him or herself from culpability for the heinous crime of infanticide. An abortion performed in this manner is never necessary to protect the life or health of the woman.

**(Rep Whalley in the Chair)**

Reps. Buhlman, Ruffner, Ingbreton and Cady spoke against.

Reps. Norelli and Dokmo spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 189 NAYS 129****YEAS 189****BELKNAP**

Allen, Janet  
Nedeau, Stephen  
Whalley, Michael

Bartlett, Gordon  
Pilliod, James

Dewhirst, Glenn  
Rice, Thomas

Holbrook, Robert  
Russell, David

**CARROLL**

Babson, David Jr  
Olimpio, J Lisbeth

Dickinson, Howard  
Patten, Betsey

McConkey, Mark

Morrow, Harry

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Parkhurst, Henry  
Royce, H Charles  
Webber, Amy

Dunn, James  
Hunt, John  
Pratt, John  
Slack, Pamela

Eaton, Daniel  
Meader, David  
Richardson, Barbara  
Smith, Edwin

Espieffs, Peter  
Mitchell, McKim  
Robertson, Timothy  
Tilton, Anna

**COOS**

Mears, Edgar  
Tholl, John Jr

Poulin, Richard

Stohl, Eric

Theberge, Robert

**GRAFTON**

Akins, Ralph  
Bleyler, Ruth  
Eaton, Stephanie  
Nordgren, Sharon

Almy, Susan  
Cooney, Mary  
Gionet, Edmond  
Scovner, Nancy

Barker, Robert  
Densmore, Edward  
Hammond, Lee  
Sokol, Hilda

Benn, Bernard  
Diamond, Estelle  
Naro, Debra  
Solomon, Peter

**HILLSBOROUGH**

Barry, J Gail  
Christensen, D L Chris  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Holden, Randolph  
Kurk, Neal  
Malloy, Chris  
O'Brien, Lori  
Rowe, Robert  
Sullivan, Francis

Bergin, Peter  
Clemons, Jane  
Craig, James  
Drisko, Richard  
Gorman, Mary  
Irwin, Anne-Marie  
Lasky, Bette  
McRae, Karen  
Palangas, Eric  
Scanlon, Michael  
Wheeler, Robert

Buckley, Raymond  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Graham, John  
Johnson, Lionel  
Leach, Edward  
Mercer, Robert  
Pappas, Christopher  
Shaw, Barbara

Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Fletcher, Richard  
Hall, Charles  
Kopka, Angeline  
Lessard, Rudy  
Movsesian, Lori  
Price, Pamela  
Spiess, Paul

**MERRIMACK**

Anderson, Eric  
Davis, Frank  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
McCormick, Tom  
Perkins, Randy

Blanchard, Elizabeth  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Oliver, James  
Potter, Frances

Bouchard, Candace  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
Marple, Richard  
Osborne, Jessie  
Rush, Deanna

Brueggemann, Donald  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy  
Owen, Derek  
Seldin, Gloria

**ROCKINGHAM**

Belanger, Ronald  
Coes, Betsy  
Francoeur, Sheila  
Holland, James Jr  
Langley, Jane  
McKinney, Betsy  
Pantelakos, Laura  
Shultis, Elizabeth  
Tufts, J Arthur

Blanchard, MaryAnn  
Dalrymple, Janeen  
Gilbert, Karl  
Johnson, Robert  
Langone, John  
McMahon, Charles  
Priestley, Anne  
Smith, Donald  
Vallone, Matthew

Casey, Kimberley  
Doyle, Christopher  
Gleason, John  
Katsakiores, George  
Major, Norman  
Norelli, Terie  
Rausch, James  
Splaine, James  
Weare, E Albert

Clark, Vivian  
Flanders, John Sr  
Gould, Kenneth  
Kelley, Jane  
McEachern, Paul  
Noyes, Richard  
Robertson, Carl  
Stone, Joseph

**STRAFFORD**

Bemis, Alan  
Dunlap, Patricia  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Bickford, David  
Grassie, Anne  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Brown, Julie  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Spang, Judith

Creteau, Irene  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Taylor, Katherine

**SULLIVAN**

Cloutier, John  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

Harris, Joseph  
Phinizy, James

**NAYS 129****BELKNAP**

Ahern, Omer Jr  
Flanders, Donald

Boyce, Laurie  
Lawton, David

Clark, Charles  
Wendelboe, Fran

Fitzgerald, James

**CARROLL**Brown, Carolyn  
Stevens, Stanley

Derby, Mark

Kenney, Bettie

Mock, Henry

**CHESHIRE**

Laurent, John

Manning, Joseph

**COOS**Guay, Lawrence  
Woodward, David

King, Frederick

Pratt, Leighton

Richardson, Herbert

**GRAFTON**Dudley, Terri  
Ingbretson, PaulGilman, G Michael  
Maybeck, MargieGiuda, Robert  
Sorg, GregoryHam, Bonnie  
Williams, Burton**HILLSBOROUGH**Adams, Jarvis  
Artz, Lawrence  
Batula, Peter  
Brassard, Paul  
Carter, Jeffrey  
Elliott, Larry  
Hagan, Barbara  
Haytayan, Harry Jr  
Jasper, Shawn  
Luebker, Bernard  
Mosher, William  
Reeves, Sandra  
Tahir, SaghirAllan, Nelson  
Balboni, Michael  
Beaton, William  
Brundige, Robert  
Chabot, Robert  
Fields, Dennis  
Hansen, Ryan  
Hinkle, Peyton  
Jean, Claudette  
Martin, Mary Ellen  
Pappas, Marc  
Slocum, Lee  
Vaillancourt, SteveAllen, Timothy  
Balcom, John  
Bergeron, Jean-Guy  
Bruno, Pierre  
Christiansen, Lars  
Gibson, John  
Harrington, Paul  
Hunter, Bruce  
LaFlamme, Paul  
McHugh, Claire  
Pepino, Leo  
Souza, Kathleen  
Wheeler, JamesArnold, Thomas Jr  
Baroody, Benjamin  
Bouchard, David  
Buhlman, David  
Crane, Elenore Casey  
Goyette, Peter Jr  
Hawkins, Ken  
Infantine, William  
Lawrence, James  
Mooney, Maureen  
Pilotte, Maurice  
Stepanek, Stephen**MERRIMACK**Daniels, Eric  
Leber, WilliamField, William  
Nutter, EdwardFoley, Albert  
Soltani, Tony

Kennedy, Richard

**ROCKINGHAM**Allen, Mary  
Carson, Sharon  
Dumaine, Dudley  
Headd, James  
Itse, Daniel  
Morris, Richard  
Roessner, Kurt  
Welch, DavidBicknell, Elbert  
DiFruscia, Anthony  
Fesh, Bob  
Hughes, Daniel  
Johnson, Rogers  
Packard, Sherman  
Ruffner, Walter  
Weyler, KennethCady, Harriet  
Dodge, Robert  
Gillick, Thomas  
Ingram, Russell  
Kobel, Rudolph  
Putnam, Ed II  
Smith, Paul  
Wiley, RobertCamm, Kevin  
Dowd, John  
Griffin, Mary  
Introne, Robert  
Letourneau, Robert  
Quandt, Matthew  
Waterhouse, Kevin  
Winchell, George**STRAFFORD**Albert, Russell  
Easson, Timothy  
Scott, DavidBerube, Roger  
Harrington, Michael  
Twombly, JamesCallaghan, Frank  
Hollinger, Jeffrey  
Woods, PhyllisCataldo, Sam  
Newton, Clifford**SULLIVAN**

Donovan, Thomas

and the majority committee report was adopted.

Rep. Alger did not vote and wished to be recorded in favor.

**HB 1340-FN**, relative to the Informed Consent for Abortion Act. **WITHOUT RECOMMENDATION.**

Rep. Hagan moved Ought to Pass with Amendment and offered a floor amendment (0800h).

**Floor Amendment (0800h)**

Amend the bill by replacing all after the enacting clause with the following:

I New Subdivision; Informed Consent for Abortion Act. Amend RSA 132 by inserting after section 28 the following new subdivision:

Informed Consent for Abortion Act

132:29 Title. This subdivision may be known and cited as the "Informed Consent for Abortion Act."

132:30 Findings and Purposes.

I. The general court finds that:

(a) It is essential to the psychological and physical well-being of a woman considering an abortion that she receive complete and accurate information on her alternatives.

(b) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice between 2 alternatives: giving birth or having an abortion.

II. Based on the findings in paragraph I, it is the purpose of this subdivision to:

(a) Ensure that every woman considering an abortion receive information on her alternatives and that every woman submitting to an abortion do so only after giving her voluntary and informed consent to the abortion procedure;

(b) Reduce "the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed." *Planned Parenthood v. Casey*, 505 U.S. 833, 882 (1992); and

(c) Adopt the construction of the term "Medical Emergency" accepted by the U.S. Supreme Court in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

132:31 Definitions. In this subdivision:

I. "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will with reasonable likelihood cause the death of the unborn child. Such use, prescription or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child;

(b) Remove a dead unborn child caused by spontaneous abortion; or

(c) Remove an ectopic pregnancy.

II. "Complication" means that condition which includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, pelvic inflammatory disease, endometriosis, and retained products. The department may further define "complication."

III. "Conception" means the fusion of a human spermatozoon with a human ovum.

IV. "Department" means the department of health and human services.

V. "Facility" or "medical facility" means any public or private hospital, clinic, center, medical school, medical training institution, health care facility, physician's office, infirmary, dispensary, ambulatory surgical treatment center or other institution or location wherein medical care is provided to any person.

VI. "First trimester" means the first 12 weeks of gestation.

VII. "Gestational age" means the time that has elapsed since the first day of the woman's last menstrual period.

VIII. "Hospital" means an institution licensed pursuant to RSA 151.

IX. "Physician" means any person licensed under RSA 329.

X. "Pregnant" or "pregnancy" means that female reproductive condition of having an unborn child in the woman's uterus.

XI. "Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse, or physician.

XII. "Unborn child" means the offspring of human beings from conception until birth.

XIII. "Viability" means the state of fetal development when, in the judgment of the physician based on the particular facts of the case before him or her and in light of the most advanced medical technology and information available to him or her, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his or her mother, with or without artificial support.

132:32 Informed Consent Requirement. No abortion shall be performed or induced without the voluntary and informed consent of the woman upon whom the abortion is to be performed or induced. Except in the case of a medical emergency, consent to an abortion is voluntary and informed if and only if:

I. At least 24 hours before the abortion, the physician who is to perform the abortion or the referring physician has informed the woman, orally and in person, of the following:

(a) The name of the physician who will perform the abortion.

(b) Medically accurate information that a reasonable patient would consider material to the decision of whether or not to undergo the abortion including:

(1) A description of the proposed abortion method;

(2) The immediate and long-term medical risks associated with the proposed abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation, danger to subsequent pregnancies, and increased risk of breast cancer; and

(3) Alternatives to the abortion.

(c) The probable gestational age of the unborn child at the time the abortion is to be performed, and, if the unborn child is viable or has reached the gestational age of 24 weeks, that:

(1) The unborn child may be able to survive outside the womb;

(2) The woman has the right to request the physician to use the method of treatment that is most likely to preserve the life of the unborn child; and

(3) If the unborn child is born alive, the attending physician has the legal obligation to take all reasonable steps necessary to maintain the life and health of the child.

(d) The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.

(e) The medical risks associated with carrying her child to term.

(f) Any need for anti-Rh immune globulin therapy if she is Rh negative, the likely consequences of refusing such therapy, and the cost of the therapy.

II. At least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:

(a) Medical assistance benefits may be available for prenatal care, childbirth, and neonatal care, and that more detailed information on the availability of such assistance is contained in the printed materials given to her and described in RSA 132:33.

(b) The printed materials in RSA 132:33 describe the unborn child and list agencies that offer alternatives to abortion.

(c) The father of the unborn child is liable to assist in the support of this child, even in instances where he has offered to pay for the abortion. In the case of rape or incest, this information may be omitted.

(d) She is free to withhold or withdraw her consent to the abortion at any time without affecting her right to future care or treatment and without the loss of any state or federally funded benefits to which she might otherwise be entitled.

III. The information in paragraphs I and II is provided to the woman individually and in a private room to protect her privacy and maintain the confidentiality of her decision, to ensure that the information focuses on her individual circumstances and that she has an adequate opportunity to ask questions.

IV. At least 24 hours before the abortion, the woman is given a copy of the printed materials described in RSA 132:33. If the woman is unable to read the materials, they shall be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided to her in a language she can understand.

V. Prior to the abortion, the woman certifies in writing on a checklist form provided or approved by the department that the information required to be provided under paragraphs I, II, and IV has been provided.

VI. Except in the case of a medical emergency, the physician who is to perform the abortion shall receive and sign a copy of the written certification prescribed in paragraph V prior to performing the abortion. The physician shall retain a copy of the checklist certification form in the woman's medical record.

VII. A physician shall not require or obtain payment for a service provided to a patient who has inquired about an abortion or scheduled an abortion until the expiration of the 24-hour reflection period required in paragraphs I, II, and IV.

132:33 Publication of Materials. The department shall publish printed materials in English, within 90 days after this subdivision becomes law. On an annual basis, the department shall review and update, if necessary, the following easily comprehensible printed materials:

I.(a) Geographically indexed materials that inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while her child is dependent, including but not limited to adoption agencies. The materials shall include a comprehensive list of the agencies, a description of the services they offer, and the telephone numbers and addresses of the agencies, and shall inform the woman about available medical assistance benefits for prenatal care, childbirth, and neonatal care.

(b) The department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section. The materials shall also contain a toll-free 24-hour-a-day telephone number which may be called to obtain information about the agencies in the locality of the caller and of the services they offer.

(c) The materials shall state that it is unlawful for any individual to coerce a woman to undergo an abortion and that if a minor is denied financial support by the minor's parents, guardian, or custodian due to the minor's refusal to have an abortion performed, the minor shall be deemed emancipated for the purposes of eligibility for public-assistance benefits, except that such benefits may not be used to obtain an abortion. The materials shall also state that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action at law and that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care. The materials shall include the following statement:

(d) "There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The state of New Hampshire strongly urges you to contact one or more of these agencies before making a final decision about abortion. The law requires that your physician or his or her agent give you the opportunity to call agencies like these before you undergo an abortion."

II.(a) Materials that include information on the support obligations of the father of a child who is born alive, including but not limited to the father's legal duty to support his child, which may include child support payments and health insurance, and the fact that paternity may be established by the father's signature on a birth certificate or statement of paternity, or by court action.

(b) The printed material shall also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling state or county public assistance agencies.

III. Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the unborn child at 2-week gestational increments from fertilization to full term, including color photographs of the developing unborn child at 2-week gestational increments. The descriptions shall include information about brain and heart function, the presence of external members and internal organs during the applicable stages of development and any relevant information on the possibility of the unborn child's survival. If a photograph is not available, a picture shall contain the dimensions of the unborn child and shall be realistic. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages.

IV. Materials which contain objective information describing the various surgical and drug-induced methods of abortion, as well as the immediate and long-term medical risks commonly associated with each abortion method including, but not limited to, the risks of infection, hemorrhage, cervical or uterine perforation or rupture, danger to subsequent pregnancies, increased risk of breast cancer, the possible adverse psychological effects associated with an abortion, and the medical risks associated with carrying a child to term.

V. A checklist certification form to be used by the physician or a qualified person under RSA 132:32, V, which shall list all the items of information which are to be given to the woman by a physician or the agent under this subdivision.

VI. The materials shall be printed in a typeface large enough to be clearly legible.

VII. The materials required under this section shall be available at no cost from the department upon request and in an appropriate number to any person, facility, or hospital.

132:34 Criminal Penalties. Any person who intentionally, knowingly, or recklessly violates this subdivision is guilty of a felony. Any information given by the woman pursuant to this subdivision shall be confidential and any person, except the woman who provided the information, who willfully discloses any such information shall be guilty of a felony.

132:35 Civil Penalties. In addition to whatever remedies are available under the common or statutory law of this state, failure to comply with the requirements of this subdivision shall:

I. Provide a basis for a civil malpractice action. Any intentional violation of this subdivision shall be admissible in a civil suit as prima facie evidence of a failure to obtain informed consent. When requested, the court shall allow a woman to proceed using solely her initials or a pseudonym and may close any proceedings in the case and enter other protective orders to preserve the privacy of the woman upon whom the abortion was performed.

II. Provide a basis for professional disciplinary action under RSA 329.

III. Provide a basis for recovery for the woman for the wrongful death of her unborn child, whether or not the unborn child was born alive or was viable at the time the abortion was performed.

132:36 Construction. Nothing in this subdivision shall be construed as creating or recognizing a right to abortion. It is not the intention of this subdivision to make lawful an abortion that is currently unlawful.

132:37 Severability. If any provision of this subdivision or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the provisions or applications of this subdivision which can be given effect without the invalid provisions or applications, and to this end, the provisions of this subdivision are severable.

2 Effective Date. This act shall take effect January 1, 2005.

### AMENDED ANALYSIS

This bill requires the informed consent of a pregnant woman before an abortion may be performed. Rep. Hagan spoke in favor.

Reps. John Pratt, Lockwood and Pilliod spoke against.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (0800h)

### YEAS 113 NAYS 209

#### YEAS 113

#### BELKNAP

Ahern, Omer Jr  
Fitzgerald, James

Boyce, Laurie  
Flanders, Donald

Clark, Charles  
Lawton, David

Dewhirst, Glenn  
Wendelboe, Fran

#### CARROLL

Brown, Carolyn

Derby, Mark

Mock, Henry

Stevens, Stanley

#### CHESHIRE

Laurent, John

#### COOS

Richardson, Herbert

Stohl, Eric

Woodward, David

#### GRAFTON

Dudley, Terri  
Sorg, Gregory

Giuda, Robert

Ingbretson, Paul

Maybeck, Margie

#### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Bergeron, Jean-Guy  
Buhlman, David  
Coughlin, Pamela  
Hagan, Barbara  
Hawkins, Ken  
LaFiamme, Paul  
McHugh, Claire  
Pepino, Leo  
Souza, Kathleen  
Vaillancourt, Steve

Allan, Nelson  
Balboni, Michael  
Bouchard, David  
Carter, Jeffrey  
Fields, Dennis  
Hall, Charles  
Hinkle, Peyton  
Lawrence, James  
Mooney, Maureen  
Pilotte, Maurice  
Stepanek, Stephen  
Wheeler, James

Allen, Timothy  
Batula, Peter  
Brassard, Paul  
Chabot, Robert  
Gibson, John  
Hansen, Ryan  
Jasper, Shawn  
Luebker, Bernard  
Mosher, William  
Reeves, Sandra  
Sullivan, Peter

Arnold, Thomas Jr  
Beaton, William  
Brundige, Robert  
Christiansen, Lars  
Goyette, Peter Jr  
Harrington, Paul  
Jean, Claudette  
Martin, Mary Ellen  
Pappas, Marc  
Slocum, Lee  
Tahir, Saghir

**MERRIMACK**

Field, William  
Nutter, Edward

Foley, Albert  
Soltani, Tony

Kennedy, Richard

Leber, William

**ROCKINGHAM**

Allen, Mary  
DiFruscia, Anthony  
Fesh, Bob  
Headd, James  
Katsakiores, George  
O'Neil, Michael  
Ruffner, Walter  
Weyler, Kenneth

Bicknell, Elbert  
Dodge, Robert  
Gillick, Thomas  
Hughes, Daniel  
Letourneau, Robert  
Packard, Sherman  
Smith, Paul  
Wiley, Robert

Cady, Harriet  
Dowd, John  
Griffin, Mary  
Introne, Robert  
Morris, Richard  
Putnam, Ed II  
Waterhouse, Kevin  
Zolla, William

Carson, Sharon  
Dumaine, Dudley  
Hamel, Albert  
Itse, Daniel  
Noyes, Richard  
Quandt, Matthew  
Welch, David

**STRAFFORD**

Albert, Russell  
Hollinger, Jeffrey  
Woods, Phyllis

Berube, Roger  
Newton, Clifford

Callaghan, Frank  
Scott, David

Easson, Timothy  
Twombly, James

**SULLIVAN**

None

**NAYS 209****BELKNAP**

Allen, Janet  
Pilliod, James

Bartlett, Gordon  
Rice, Thomas

Holbrook, Robert  
Russell, David

Nedean, Stephen  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Morrow, Harry

Dickinson, Howard  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

McConkey, Mark

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Mitchell, McKim  
Robertson, Timothy  
Tilton, Anna

Dunn, James  
Hunt, John  
Parkhurst, Henry  
Royce, H Charles  
Webber, Amy

Eaton, Daniel  
Manning, Joseph  
Pratt, John  
Slack, Pamela

Espieffs, Peter  
Meador, David  
Richardson, Barbara  
Smith, Edwin

**COOS**

Guay, Lawrence  
Pratt, Leighton

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Ham, Bonnie  
Scovner, Nancy

Alger, John  
Bleyler, Ruth  
Eaton, Stephanie  
Hammond, Lee  
Sokol, Hilda

Almy, Susan  
Cooney, Mary  
Gilman, G Michael  
Naro, Debra  
Solomon, Peter

Barker, Robert  
Densmore, Edward  
Gionet, Edmond  
Nordgren, Sharon  
Williams, Burton

**HILLSBOROUGH**

Balcom, John  
Bruno, Pierre  
Clemons, Jane  
Crane, Elenore Casey  
Drisko, Richard  
Gargas, Carolyn  
Holden, Randolph

Baroody, Benjamin  
Buckley, Raymond  
Cote, David  
Desmarais, Vivian  
Elliott, Larry  
Gorman, Mary  
Hunter, Bruce

Barry, J Gail  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Emerton, Larry  
Graham, John  
Infantine, William

Bergin, Peter  
Christensen, D L Chris  
Craig, James  
Dokmo, Cynthia  
Fletcher, Richard  
Haytayan, Harry Jr  
Irwin, Anne-Marie



Johnson, Lionel  
Leach, Edward  
Mercer, Robert  
Pappas, Christopher  
Shaw, Barbara

Kopka, Angeline  
Lessard, Rudy  
Movsesian, Lori  
Price, Pamela  
Spiess, Paul

Kurk, Neal  
Malloy, Chris  
O'Brien, Lori  
Rowe, Robert  
Sullivan, Francis

Lasky, Bette  
McRae, Karen  
Palangas, Eric  
Scanlon, Michael  
Wheeler, Robert

### MERRIMACK

Anderson, Eric  
Daniels, Eric  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy  
Owen, Derek  
Seldin, Gloria

Blanchard, Elizabeth  
Davis, Frank  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
McCormick, Tom  
Perkins, Randy

Bouchard, Candace  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Oliver, James  
Potter, Frances

Brueggemann, Donald  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
Marple, Richard  
Osborne, Jessie  
Rush, Deanna

### ROCKINGHAM

Belanger, Ronald  
Clark, Vivian  
Flanders, John Sr  
Gould, Kenneth  
Kelley, Jane  
Major, Norman  
Norelli, Terie  
Robertson, Carl  
Splaine, James  
Weare, E Albert

Blanchard, MaryAnn  
Coes, Betsy  
Francoeur, Sheila  
Holland, James Jr  
Kobel, Rudolph  
McEachern, Paul  
Pantelakos, Laura  
Roessner, Kurt  
Stone, Joseph  
Winchell, George

Camm, Kevin  
Dalrymple, Janeen  
Gilbert, Karl  
Ingram, Russell  
Langley, Jane  
McKinney, Betsy  
Priestley, Anne  
Shultis, Elizabeth  
Tufts, J Arthur

Casey, Kimberley  
Doyle, Christopher  
Gleason, John  
Johnson, Robert  
Langone, John  
McMahon, Charles  
Rausch, James  
Smith, Donald  
Vallone, Matthew

### STRAFFORD

Bemis, Alan  
Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Spang, Judith

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Taylor, Katherine

Brown, Julie  
Grassie, Anne  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Cataldo, Sam  
Harrington, Michael  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

### SULLIVAN

Cloutier, John  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

and floor amendment (0800h) failed.

Reps. Bruno and Gilman voted Nay and intended to vote Yea.

The question being adoption of the motion of Ought to Pass.

Motion failed.

Rep. John Pratt moved Inexpedient to Legislate.

Adopted.

**HB 1413**, relative to the creation of mandatory screening panels for medical injury claims. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Harry M. Haytayan, Jr. for the Majority of Judiciary: This bill will increase access and reduce the cost of medical care in New Hampshire. It is the work product of two successive legislative studies. The bill is targeted at a very specific problem: the problem of rapidly rising rates of medical malpractice insurance costs that are driving doctors out of New Hampshire. The bill addresses this problem by setting up a more efficient system of settling medical malpractice lawsuits. It makes the legal system more efficient by tracking medical malpractice claims along an accelerated schedule and requiring the parties to actively participate in a panel process which encourages early resolution of their claims, before thousands of dollars are unnecessarily spent on legal fees. A similar system in Maine saved on average \$14,000 per claim in defense costs, while assuring

that plaintiffs with meritorious claims were fully compensated for their injuries. Simply put, meritorious cases are settled quicker by focusing the insurance companies on the merits of the claims sooner, and non-meritorious cases are settled quicker by focusing the plaintiff on the weakness of the claim sooner. The most important element of the statute is a credible screening panel, made up of a judge, a doctor and a lawyer charged with evaluating the merits of each claim and encouraging the parties to settle. The judge acts as panel chair and is responsible for moving the case along and helping the parties to settle. If the parties can't settle, they present their claims on the limited issues of liability and comparative negligence to the panel at a hearing and the panel decides whether the case has merit. If the panel finds against the plaintiff unanimously the plaintiff has a choice. He or she can choose not to have the findings admitted to the jury. If the panels findings are not admitted and the plaintiff loses at trial he or she will pay the subsequent costs and attorney's fees. If the plaintiff allows the panel's findings to be admitted at trial, he or she will not be responsible for any subsequent costs. This should encourage admissibility of the panel's unanimous findings. If the parties still can't settle their claims after the panel hearing and decision, they proceed to trial. In Maine a similar panel process resulted in settlement of over 80% of all claims, before they ever got to a full panel hearing. The bill also sets up a legislative oversight committee to monitor the system and to recommend further reforms, if necessary. It also codifies accepted principles of expert evidence to assure that only reliable expert testimony is offered in all civil cases at trial. This bill reforms the system to reduce the cost of settling cases, so that medical malpractice insurance rates won't force medical providers out of practice. It will help provide access to medical care in New Hampshire while helping to reduce the costs. The Minority's belief that the panel system can work without the panel having any power flies in the face of logic and experience. To be effective, the panel process must be credible. This bill is credible. The minority's proposal is not. Vote 11-9.

Rep. James W. Craig for the Minority of Judiciary: The minority concurs with the majority in that it agrees that medical malpractice insurance rates are too high and that a screening panel may in the long run help in lowering these rates. However, the minority believes that these goals can be accomplished without meddling with the jury system as this bill does. A screening panel system has existed for years and lawyers did not use it because it was not mandatory. This panel will be mandated and it will force parties to lay their legal cards on the table early in the process. If a party loses 3-0 at the panel that sends a strong message that there is a problem with the case. Only a fool would spend more money on a trial after losing a panel decision and the minority believes that the panel decision alone will be sufficient to settle cases. The majority, however, does not trust peoples' common sense in light of these litigation and financial pressures and takes the panel a giant step further. It requires that a subsequent trial be tainted with jury instructions which tell the jury who the panel members were and what its finding were. Then it tells the jury to make up its own mind in spite of the panel. If the loser at the panel stage does not like that option then he or she can have a jury trial without those instructions and if he or she loses the trial the loser pays the post panel costs and attorney's fees incurred by the other side – choices well known to Hobson and Sophie. The minority believes that this provision is unconstitutional under Part 1, Art. 20 which holds the right to a jury trial to be "sacred." Further, these onerous provisions discriminate unfairly against the middle class. The wealthy and insurance companies can afford to pay costs and the poorest members of society are judgment proof. The middle class truly has something to lose by these sanctions and they will be effectively barred from the courts if this bill passes.

### **Majority Amendment (0794h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

### **CHAPTER 519-B PANELS FOR MEDICAL INJURY CLAIMS**

#### **519-B:1 Findings, Purpose and Intent.**

1. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability

for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Presentation of claims to a medical review panel is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial. It is essential to the effectiveness of the panel process that panel proceedings be confidential unless and until a matter heard by a panel proceeds to trial. The panel process will encourage the prompt resolution of claims, because both sides will be given an objective view of the merits. If the panel finds that a claim has merit, the defendant will be more likely to pay the claim or negotiate a compromise that is favorable to the claimant. If the panel finds that the claim lacks merit, the claimant is more likely to withdraw the claim or accept a nominal settlement.

II. The purpose of requiring mandatory panels in medical injury cases is to identify claims of medical injury which merit compensation and to encourage early resolution of those claims, as well as to identify and encourage early withdrawal or dismissal of non-meritorious medical injury claims.

519-B:2 Definitions. In this chapter:

I. "Action for medical injury" means an action for medical injury as defined in RSA 507-E:1, I.

II. "Medical care provider" means a medical care provider as defined in RSA 507-E:1, II.

III. "Medical injury" means a medical injury as defined in RSA 507-E:1, III.

519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges from which the chief justice of the superior court shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain lists of medical care providers, and attorneys with litigation experience, recommended by their respective professional organizations, to serve on panels under this chapter. As required by the chief justice, the professional organizations of those professions shall provide the chief justice with the names of volunteers qualified to serve on a panel.

II. Panel members shall be selected as follows.

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a judge or retired judge from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson.

(c) The chief justice of the superior court shall notify the chairperson and the parties, and provide them with the lists of medical care providers and attorneys. The chairperson shall choose 2 additional panel members from the lists as follows:

(1) An attorney with litigation experience.

(2) A medical care provider who in the opinion of the panel chairperson is best qualified to serve on the panel.

(3) When agreed upon by the plaintiff and the defendant, a member who is not on the chief justice's list.

III. The panel process shall not delay or postpone the trial of a medical injury case. The superior court, in coordination with the chairperson of the panel, shall establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of the panel chairperson if he or she is not otherwise compensated by the state of New Hampshire. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which the medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) If any panel member other than the chairperson is unable or unwilling to serve in any matter or is challenged for cause by any person who is a party to a proceeding before a panel, the party challenging the member shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the panel member.

(b) If the chairperson is challenged for cause by any person who is a party to the proceeding before a panel, the party challenging shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The parties, through the panel chairperson, may subpoena witnesses to the panel.

IX. The parties shall conduct discovery in accordance with the rules of the superior court. The parties shall attempt in good faith to resolve disputes themselves.

X. The chairperson shall rule on disputes regarding discovery and may issue such orders as are necessary to enforce the ruling.

#### 519-B:4 Panel Procedures.

I. All documents filed with the court in a medical injury action during the process are confidential.

II. Within 30 days of the return date, the defendant shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel and for completing discovery. If the parties are unable to agree on a timetable within 30 days of the return date, the claimant shall notify the chairperson of the panel. The chairperson, in coordination with the superior court judge, shall then establish a timetable for the filing of all relevant records and reasonable discovery. The panel hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. If the defendant concedes liability, the panel may be bypassed. All parties to a claim may, by written agreement, submit any issue on liability or damages to binding determination by the panel. Both parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel has no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on may be presented, by motion, in superior court.

IV. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

V. All requests for extensions of time under this section shall be made to the panel chairperson. The chairperson may extend any time period for good cause, except that the chairperson may not extend any time period that would result in the hearing being held more than 9 months following the return date. Extensions of any time period that would result in the hearing being held more than 9 months following the return date can be granted only by the superior court and only in exceptional circumstances.

VI. Cases pending before the panels may be dismissed pursuant to the rules of the superior court.

VII. The panel chairperson may impose sanctions pursuant to the rules of the superior court. Dismissals shall require the approval of the superior court.

#### 519-B:5 Hearing.

I.(a) The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. The panel shall afford the parties wide latitude in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chairperson shall make all procedural rulings and those rulings are final. The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of evidence which reasonable

persons are accustomed to rely upon in the conduct of serious affairs. The panel shall make findings upon such evidence as is presented at the hearing, the records, and any expert opinions provided by or sought by the panel or the parties.

(b) After presentation by the parties, the panel may request from either party additional facts, records, or other information to be submitted in writing or at a continued hearing, which continued hearing shall be held as soon as possible. The continued hearing shall be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties. Replacement panel members shall be appointed pursuant to this chapter.

II. The panel shall maintain a tape-recorded record. Except as provided in RSA 519-B:9, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The panel chairperson shall attempt to mediate any differences of the parties before proceeding to findings.

IV. The panel chairperson may order sanctions against any party in accordance with superior court rules.

#### 519-B:6 Findings by Panel.

I. At the conclusion of the presentations, the panel shall make its findings regarding negligence and causation in writing within 30 days by answering the following questions:

(a) Whether the acts or omissions complained of constitute a deviation from the applicable standard of care by the medical care provider charged with that care and whether the acts or omissions complained of proximately caused the injury complained of; and

(b) If fault on the part of the medical care provider is found, whether any fault on the part of the patient was equal to or greater than the fault on the part of the practitioner or provider.

II. The standard of proof used by the panel shall be as follows.

(a) The plaintiff shall prove negligence and proximate causation by a preponderance of the evidence; and

(b) The defendant shall prove comparative negligence by a preponderance of the evidence.

519-B:7 Notification of Findings. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings, notice of claim, and record of the hearing shall be preserved in the superior court records after final judgment or final resolution of the case. All medical and provider records shall be returned to the party providing them to the panel.

519-B:8 Mediation. If requested by the parties after the panel issues its findings, the panel chairperson may assist the parties by serving as a mediator.

#### 519-B:9 Confidentiality and Admissibility.

I. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated in every respect as private and confidential by the panel and the parties to the claim.

(a) The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not otherwise be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except:

(1) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment; and

(2) The party who made the statement or presented the evidence may agree to the submission, use, or disclosure of that statement or evidence.

(b) If the panel findings under RSA 519-B:6, I(a) are unanimous and unfavorable to the defendant, the findings may be admissible in accordance with RSA 519-B:10.

(c) If the panel findings as to any question under RSA 519-B:6, I are unanimous and unfavorable to the plaintiff, the findings may be admissible in accordance with RSA 519-B:10.

(d) If the panel findings under RSA 519-B:6, I(a) are unanimous and favorable to the plaintiff and the panel findings under RSA 519-B:6, I(b) are unanimous and favorable to the defendant, then RSA 519-B:10 shall not apply.

II. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

III. The deliberations and discussion of the panel and the testimony of any expert, whether called by any party or the panel, shall be privileged and confidential, and no such person may be

asked or compelled to testify at a later court proceeding concerning the deliberations, discussions, findings, or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented the nonparty expert, except such deliberation, discussion, and testimony as may be required to prove an allegation of fraud.

IV. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The chairperson has the same authority to rule upon discovery matters as a superior court justice. Notwithstanding paragraph I of this section, in a subsequent superior court action all discovery conducted during the panel proceedings is deemed discovery conducted as a part of that court action.

V. Medical records shall be available for the investigation of medical injury claims and defenses pursuant to RSA 151:21, X and RSA 332-I:1, I.

#### 519-B:10 Optional Instructions.

I. When the panel makes unanimous findings on all questions under RSA 519-B:6, I, the party against whom the findings are made may elect to have the trial court read the panel findings to the jury and furnish the following information to provide a basis for the jury to understand the nature of the panel findings and to put the panel findings in context in evaluating all of the evidence presented at the trial:

(a) The panel process is a preliminary procedural step through which malpractice claims proceed;

(b) The panel in this case consisted of (insert the name and identity of the members);

(c) The panel conducts a summary hearing and is not bound by the rules of evidence;

(d) The hearing is not a substitute for a full trial and may or may not have included all of the evidence that is presented at the trial;

(e) The jury is not bound by the findings of the panel and it is the jurors' duty to reach their own conclusions based on all of the evidence presented to them; and

(f) The panel proceedings are privileged and confidential. Consequently, the parties may not introduce panel documents or present witnesses to testify about the panel proceedings, and they may not comment on the panel findings or proceedings except as provided in subparagraphs (a) through (f).

II. The information specified in paragraph I shall be provided to the jury when the findings are admitted into evidence and when the court instructs the jury prior to submitting the case to the jury.

III. If a party does not elect to have the trial court provide instructions under paragraph I and the jury's verdict on liability and comparative negligence are for the same party as the panel's unanimous findings, the losing party shall pay the prevailing party's costs and reasonable attorneys' fees that are incurred subsequent to the panel hearing.

519-B:11 Effect of Panel Findings. Unanimous findings entered by the panel under RSA 519-B:6, I shall be implemented as follows.

I. If findings are in the affirmative, the person accused of professional negligence shall promptly enter into negotiations to pay the claim or admit liability. If liability is admitted, the claim may be submitted to the panel, upon agreement of the claimant and the person accused, for determination of damages. If the claim goes to a trial, the findings of the panel are admissible as provided in RSA 519-B:9, I(b).

II. If the findings are in the negative, the claimant shall release the claim or claims based on the findings without payment, or be subject to the admissibility of those findings under RSA 519-B:9, I(c).

#### 519-B:12 Report.

I. The administrative office of the courts shall collect data on medical injury claims and submit a report on the panel process to the committee established in RSA 519-B:13 on or before September 30 of each year. The report shall include information on medical injury cases filed, pending, and resolved during the fiscal year ending on the June 30 preceding the report date, compared to the 5 previous years.

II. The insurance commissioner shall report the average rates of medical liability insurance by specialty for medical care providers in New Hampshire to the committee established in RSA 519-B:13 on or before September 30 of each year.

#### 519-B:13 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house as follows:

- (a) Three members of the house judiciary committee.
- (b) Two members of the house health, human services and elderly affairs committee.
- (c) Two members of the house commerce committee.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee shall:

(a) Regularly collect, and insurers providing medical malpractice liability insurance coverage to New Hampshire insureds shall provide, complete claims information for claims asserted against New Hampshire insureds, including, but not limited to, the total number of claims made; the amount of each indemnity payment; the amount of the loss adjustment expense for each claim (the costs incurred to handle claims, such as defense, litigation and adjuster costs); and underwriting expenses. Total annual compensation paid to all company officers, directors, and executives shall also be provided.

(b) Review and analyze the information provided pursuant to paragraph I, and may commission studies and make recommendations as appropriate.

(c) Determine the effectiveness of mandatory screening panels for medical injury claims including, but not limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation to access to the courts by injured parties.

(d) Seek out information from the chief justice of the superior court or any other relevant sources.

V. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Five members of the committee shall constitute a quorum.

VI. Report.

(a) The committee shall analyze the information it receives from the administrative office of the courts and the insurance commissioner and report it annually to the speaker of the house of representatives, the senate president, the house clerk, and the senate clerk.

(b) The committee shall make an interim report of its findings about medical insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2006.

(c) The committee shall make a final report of its findings about medical insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2009. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

2 New Sections; Testimony of Expert Witness; Disclosure of Expert Testimony. Amend RSA 516 by inserting after section 29 the following new sections:

516:29-a Expert Witnesses.

I. A witness shall not be allowed to offer expert testimony, unless the court finds that:

- (a) The testimony is based upon sufficient facts or data.
- (b) The testimony is the product of reliable principles and methods.
- (c) The witness has applied the principles and methods reliably to the facts of the case.

II. In evaluating the basis for proffered expert testimony, the court shall consider, if appropriate to the circumstance, whether the expert's opinion were supported by theories or techniques that have been or can be tested; have been subjected to peer review and publication; have a known or potential rate of error; and are generally accepted in the appropriate scientific literature. In making its findings, the court may consider other factors specific to the proffered testimony.

516:29-b Disclosure of Expert Testimony.

I. A party shall disclose to other parties to a litigation the identity of any person who may be used at trial to present expert testimony.

II. Except as otherwise stipulated, or directed by the court, the disclosure shall be accompanied by a written report signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information consid-

ered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

III. The disclosure shall be made as directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosure shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party, within 30 days after the disclosure made by the other party. The parties shall supplement their disclosures as required by the court's rules.

IV. The deposition of any person who has been identified as an expert whose opinions may be presented at trial, and whose testimony has been the subject of a report under this section, shall not be conducted until after such report has been provided.

3 Patient's Bill of Rights; Medical Records. Amend RSA 151:21, X to read as follows:

X. The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. *Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative, with the prior written authorization of the patient. The facility shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the facility shall be allowed an additional 15 days to provide copies of the records.* The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

4 Medical Records; Requests to Obtain. Amend RSA 332-I:1, I to read as follows:

I. The medical information contained in the medical records in the possession of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. *Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative with the prior written authorization of the patient. The health care provider shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the health care provider shall be allowed an additional 15 days to provide copies of the records.* The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

5 Severability. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this act.

6 Repeal. RSA 519-A, relative to professional malpractice claims, is repealed.

7 Repeal. RSA 519-B:13, relative to a committee to study medical malpractice insurance rates and the mandatory medical panel process, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect December 31, 2009.

II. The remainder of this act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill:

I. Creates mandatory panels for medical injury claims.

II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.

III. Establishes criteria for the testimony of expert witnesses in certain medical injury cases.

IV. Requires parties to a litigation to disclose expert witnesses.



V. Establishes a procedure for a patient to obtain his or her medical records.

VI. Repeals the current hearing panels for professional malpractice claims.

Reps. Lasky and DiFruscia spoke against.

Reps. Craig and Soltani spoke against and yielded to questions.

Reps. Francoeur, Haytayan and Mock spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of the majority amendment.

## YEAS 203 NAYS 113

### YEAS 203

#### BELKNAP

Ahern, Omer Jr  
Dewhirst, Glenn  
Lawton, David  
Russell, David

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Pilliod, James  
Wendelboe, Fran

Clark, Charles  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

#### CARROLL

Babson, David Jr  
McConkey, Mark  
Patten, Betsey

Brown, Carolyn  
Merrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Mock, Henry

Kenney, Bettie  
Olimpio, J Lisbeth

#### CHESHIRE

Fish, Douglas  
Royce, H Charles

Hunt, John  
Slack, Pamela

Laurent, John  
Smith, Edwin

Manning, Joseph

#### COOS

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton

Richardson, Herbert

#### GRAFTON

Akins, Ralph  
Eaton, Stephanie  
Maybeck, Margie

Alger, John  
Gilman, G Michael  
Naro, Debra

Barker, Robert  
Gionet, Edmond  
Sorg, Gregory

Dudley, Terri  
Giuda, Robert  
Williams, Burton

#### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Buhlman, David  
Christensen, D L Chris  
Dionne, Kimberley  
Emerton, Larry  
Goyette, Peter Jr  
Harrington, Paul  
Infantine, William  
Leach, Edward  
Mercer, Robert  
Price, Pamela  
Slocum, Lee  
Tahir, Saghir

Allan, Nelson  
Balboni, Michael  
Bouchard, David  
Carter, Jeffrey  
Coughlin, Pamela  
Dokmo, Cynthia  
Fields, Dennis  
Graham, John  
Hawkins, Ken  
Jasper, Shawn  
Lessard, Rudy  
Mosher, William  
Reeves, Sandra  
Spiess, Paul  
Wheeler, James

Allen, Timothy  
Barry, J Gail  
Brundige, Robert  
Carter, Mark  
Crane, Elenore Casey  
Drisko, Richard  
Fletcher, Richard  
Hall, Charles  
Haytayan, Harry Jr  
Kurk, Neal  
McHugh, Claire  
O'Brien, Lori  
Rowe, Robert  
Stepanek, Stephen  
Wheeler, Robert

Arnold, Thomas Jr  
Batula, Peter  
Bruno, Pierre  
Chabot, Robert  
Desmarais, Vivian  
Elliott, Larry  
Gargas, Carolyn  
Hansen, Ryan  
Hunter, Bruce  
Lawrence, James  
McRae, Karen  
Pepino, Leo  
Scanlon, Michael  
Sweeney, Cynthia

#### MERRIMACK

Anderson, Eric  
Fraser, Leo Jr  
Hess, David  
Leber, William  
McCormick, Tom

Blanchard, Elizabeth  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla  
Nutter, Edward

Field, William  
Hager, Elizabeth  
Kenison, Leon  
MacKay, James  
Oliver, James

Foley, Albert  
Hamm, Christine  
L'Heureux, Stephen  
Maxfield, Roy

**ROCKINGHAM**

Belanger, Ronald  
 Coes, Betsy  
 Doyle, Christopher  
 Francoeur, Sheila  
 Gould, Kenneth  
 Hughes, Daniel  
 Johnson, Rogers  
 Langley, Jane  
 McKinney, Betsy  
 Pantelakos, Laura  
 Rausch, James  
 Smith, Paul  
 Waterhouse, Kevin  
 Wiley, Robert

Camm, Kevin  
 Dalrymple, Janeen  
 Dumaine, Dudley  
 Gilbert, Karl  
 Griffin, Mary  
 Ingram, Russell  
 Katsakiores, George  
 Langone, John  
 Morris, Richard  
 Priestley, Anne  
 Roessner, Kurt  
 Splaine, James  
 Weare, E Albert  
 Winchell, George

Carson, Sharon  
 Dodge, Robert  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Introne, Robert  
 Kelley, Jane  
 Letourneau, Robert  
 O'Neil, Michael  
 Putnam, Ed II  
 Ruffner, Walter  
 Stone, Joseph  
 Welch, David  
 Zolla, William

Clark, Vivian  
 Dowd, John  
 Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Johnson, Robert  
 Kobel, Rudolph  
 Major, Norman  
 Packard, Sherman  
 Quandt, Matthew  
 Smith, Donald  
 Tufts, J Arthur  
 Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
 Cataldo, Sam  
 Knowles, William  
 Twombly, James

Bemis, Alan  
 Easson, Timothy  
 Musler, George  
 Woods, Phyllis

Brown, Julie  
 Harrington, Michael  
 Newton, Clifford

Callaghan, Frank  
 Hollinger, Jeffrey  
 Scott, David

**SULLIVAN**

Harris, Joseph  
 Rodeschin, Beverly

Harris, Sandra

Jones, Constance

Leone, Richard

**NAYS 113  
BELKNAP**

None

**CARROLL**

Derby, Mark

**CHESHIRE**

Allen, Peter  
 Meader, David  
 Richardson, Barbara

Dunn, James  
 Mitchell, McKim  
 Robertson, Timothy

Eaton, Daniel  
 Parkhurst, Henry  
 Tilton, Anna

Espiefs, Peter  
 Pratt, John  
 Webber, Amy

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**

Almy, Susan  
 Densmore, Edward  
 Nordgren, Sharon

Benn, Bernard  
 Ham, Bonnie  
 Scovner, Nancy

Bleyler, Ruth  
 Hammond, Lee  
 Sokol, Hilda

Cooney, Mary  
 Ingbertson, Paul  
 Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin  
 Buckley, Raymond  
 Cote, Peter  
 Hagan, Barbara  
 Jean, Claudette  
 Lasky, Bette  
 Mooney, Maureen  
 Pilotte, Maurice  
 Sullivan, Peter

Bergeron, Jean-Guy  
 Christiansen, Lars  
 Craig, James  
 Hinkle, Peyton  
 Johnson, Lionel  
 Luebker, Bernard  
 Movsesian, Lori  
 Shaw, Barbara  
 Vaillancourt, Steve

Bergin, Peter  
 Clemons, Jane  
 Gibson, John  
 Holden, Randolph  
 Kopka, Angeline  
 Malloy, Chris  
 Palangas, Eric  
 Souza, Kathleen

Brassard, Paul  
 Cote, David  
 Gorman, Mary  
 Irwin, Anne-Marie  
 LaFlamme, Paul  
 Martin, Mary Ellen  
 Pappas, Christopher  
 Sullivan, Francis

**MERRIMACK**

Bouchard, Candace	Brueggemann, Donald	Davis, Frank	DeJoie, John
DeStefano, Stephen	Gile, Mary	Kennedy, Richard	Marple, Richard
Osborne, Jessie	Owen, Derek	Perkins, Randy	Potter, Frances
Rush, Deanna	Seldin, Gloria	Soltani, Tony	

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Blanchard, MaryAnn	Cady, Harriet
Casey, Kimberley	DiFruscia, Anthony	Itse, Daniel	McEachern, Paul
McMahon, Charles	Norelli, Terie	Robertson, Carl	Shultis, Elizabeth
Vallone, Matthew			

**STRAFFORD**

Berube, Roger	Bickford, David	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Hofemann, Roland	Johnson, Nancy	Kaen, Naida
Keans, Sandra	Miller, Joseph	Pelletier, Arthur	Rollo, Deanna
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Spang, Judith
Taylor, Katherine	Taylor, Kathleen	Wall, Janet	

**SULLIVAN**

Donovan, Thomas	Ferland, Brenda	Franklin, Peter	Phinizy, James
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and the majority amendment was adopted.

Rep. Craig offered the minority amendment (0802h)

**Minority Amendment (0802h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

Amend the bill by replacing all after the enacting clause with the following:

I New Chapter; Panels for Medical Injury Claims. Amend RSA by inserting after chapter 519-A the following new chapter:

**CHAPTER 519-B****PANELS FOR MEDICAL INJURY CLAIMS****519-B:1 Findings, Purpose and Intent.**

I. This chapter affirms the intent of the general court to contain the costs of the medical injury reparations system and to promote availability and affordability of insurance against liability for medical injury. Claims for medical injury should be resolved as early and inexpensively as possible to contain system costs. Claims that are resolved before court determination cost less to resolve than claims that must be resolved by a court. Meritorious claims should be identified as quickly as possible, as should non-meritorious claims. Defendants should consider paying or compromising meritorious claims and plaintiffs should consider withdrawing or compromising non-meritorious claims, as soon as the merits of the claims are known to the parties. Presentation of claims to a medical review panel is intended to help identify both meritorious and non-meritorious claims without the delay and expense of a court trial. It is essential to the effectiveness of the panel process that panel proceedings be confidential unless and until a matter heard by a panel proceeds to trial. The panel process will encourage the prompt resolution of claims, because both sides will be given an objective view of the merits. If the panel finds that a claim has merit, the defendant will be more likely to pay the claim or negotiate a compromise that is favorable to the claimant. If the panel finds that the claim lacks merit, the claimant is more likely to withdraw the claim or accept a nominal settlement.

II. The purpose of requiring mandatory panels in medical injury cases is to identify claims of medical injury which merit compensation and to encourage early resolution of those claims, as well as to identify and encourage early withdrawal or dismissal of non-meritorious medical injury claims.

**519-B:2 Definitions. In this chapter:**

I. "Action for medical injury" means an action for medical injury as defined in RSA 507-E:1, I.

II. "Medical care provider" means a medical care provider as defined in RSA 507-E:1, II.

III. "Medical injury" means a medical injury as defined in RSA 507-E:1, III.

## 519-B:3 Formation and Procedure.

I. The chief justice of the superior court shall maintain a list of retired judges from which the chief justice of the superior court shall choose a panel chairperson under paragraph II of this section. The chief justice of the superior court shall maintain lists of medical care providers, and attorneys with litigation experience, recommended by their respective professional organizations, to serve on panels under this chapter. As required by the chief justice, the professional organizations of those professions shall provide the chief justice with the names of volunteers qualified to serve on a panel.

## II. Panel members shall be selected as follows.

(a) Upon the entry of a medical injury case, the clerk of the superior court in which the medical injury case is filed shall notify the chief justice of the superior court.

(b) Within 14 days following the return date, the chief justice shall choose a judge or retired judge from the list maintained by the chief justice to serve as chairperson of the panel to screen the claim. If at any time a chairperson chosen under this paragraph is unable or unwilling to serve, the chief justice shall appoint a replacement following the procedure in this paragraph for the initial appointment of a chairperson.

(c) The chief justice of the superior court shall notify the chairperson and the parties, and provide them with the lists of medical care providers and attorneys. The chairperson shall choose 2 additional panel members from the lists as follows:

(1) An attorney with litigation experience.

(2) A medical care provider who in the opinion of the panel chairperson is best qualified to serve on the panel.

(3) When agreed upon by the plaintiff and the defendant, a member who is not on the chief justice's list.

III. The panel process shall not delay or postpone the trial of a medical injury case. The superior court, in coordination with the chairperson of the panel, shall establish a trial date at a structuring conference, or other scheduling conference, and all interim deadlines as it would in any other case.

IV. The chief justice of the superior court shall establish the compensation of the panel chairperson if he or she is not otherwise compensated by the state of New Hampshire. Other panel members shall serve without compensation or payment of expenses.

V. The clerk of the superior court in the county in which the medical injury case is filed shall, with the consent of the chief justice of the superior court, provide clerical and other assistance to the panel chairperson.

VI.(a) If any panel member other than the chairperson is unable or unwilling to serve in any matter or is challenged for cause by any person who is a party to a proceeding before a panel, the party challenging the member shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the panel member.

(b) If the chairperson is challenged for cause by any person who is a party to the proceeding before a panel, the party challenging shall notify the chief justice of the superior court. If the chief justice finds cause for the challenge, he or she shall replace the chairperson.

VII. The panel, through the chairperson, shall have the same subpoena power as exists for a superior court judge. The chairperson shall have sole authority, without requiring the agreement of other panel members, to issue subpoenas.

VIII. The parties, through the panel chairperson, may subpoena witnesses to the panel.

IX. The parties shall conduct discovery in accordance with the rules of the superior court. The parties shall attempt in good faith to resolve disputes themselves.

X. The chairperson shall rule on disputes regarding discovery and may issue such orders as are necessary to enforce the ruling.

## 519-B:4 Panel Procedures.

I. All documents filed with the court in a medical injury action during the process are confidential.

II. Within 30 days of the return date, the defendant shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination by the panel and for completing discovery. If the parties are unable to agree on a timetable within 30 days of the return date, the claimant shall notify the chairperson

of the panel. The chairperson, in coordination with the superior court judge, shall then establish a timetable for the filing of all relevant records and reasonable discovery. The panel hearing shall be no later than 6 months from the return date, except when the time period has been extended by the panel chairperson in accordance with this chapter.

III. If the defendant concedes liability, the panel may be bypassed. All parties to a claim may, by written agreement, submit any issue on liability or damages to binding determination by the panel. Both parties may agree to bypass the panel for any reason, or may request that certain preliminary legal affirmative defenses or issues be litigated prior to submission of the case to the panel. The panel has no jurisdiction to hear or decide, absent agreement of the parties, dispositive legal affirmative defenses, other than comparative negligence. The panel chairperson may require the parties to litigate, by motion, such dispositive legal affirmative defenses in the superior court prior to submission of the case to the panel. Any such defense, as well as any motion relating to discovery that the panel chairperson has chosen not to rule on may be presented, by motion, in superior court.

IV. Except as otherwise provided in this section, there shall be one combined hearing for all claims under this section arising out of the same set of facts. Where a medical injury case has been filed against more than one person accused of medical injury based on the same facts, the parties may, upon agreement of all parties, require that hearings be separated. The chairperson may, for good cause, order separate hearings.

V. All requests for extensions of time under this section shall be made to the panel chairperson. The chairperson may extend any time period for good cause, except that the chairperson may not extend any time period that would result in the hearing being held more than 9 months following the return date. Extensions of any time period that would result in the hearing being held more than 9 months following the return date can be granted only by the superior court and only in exceptional circumstances.

VI. Cases pending before the panels may be dismissed pursuant to the rules of the superior court.

VII. The panel chairperson may impose sanctions pursuant to the rules of the superior court. Dismissals shall require the approval of the superior court.

#### 519-B:5 Hearing.

I.(a) The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or that person's representative shall make a responding presentation. The panel shall afford the parties wide latitude in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The chairperson shall make all procedural rulings and those rulings are final. The New Hampshire rules of evidence shall not apply. Evidence shall be admitted if it is the kind of evidence which reasonable persons are accustomed to rely upon in the conduct of serious affairs. The panel shall make findings upon such evidence as is presented at the hearing, the records, and any expert opinions provided by or sought by the panel or the parties.

(b) After presentation by the parties, the panel may request from either party additional facts, records, or other information to be submitted in writing or at a continued hearing, which continued hearing shall be held as soon as possible. The continued hearing shall be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties. Replacement panel members shall be appointed pursuant to this chapter.

II. The panel shall maintain a tape-recorded record. Except as provided in RSA 519-B:9, the record may not be made public and the hearings may not be public without the consent of all parties.

III. The panel chairperson shall attempt to mediate any differences of the parties before proceeding to findings.

IV. The panel chairperson may order sanctions against any party in accordance with superior court rules.

#### 519-B:6 Findings by Panel.

I. At the conclusion of the presentations, the panel shall make its findings regarding negligence and causation in writing within 30 days by answering the following questions:

(a) Whether the acts or omissions complained of constitute a deviation from the applicable standard of care by the medical care provider charged with that care and whether the acts or omissions complained of proximately caused the injury complained of; and

(b) If fault on the part of the medical care provider is found, whether any fault on the part of the patient was equal to or greater than the fault on the part of the practitioner or provider.

II. The standard of proof used by the panel shall be as follows.

(a) The plaintiff shall prove negligence and proximate causation by a preponderance of the evidence; and

(b) The defendant shall prove comparative negligence by a preponderance of the evidence.

519-B:7 Notification of Findings. The panel's findings, signed by the panel members, indicating their vote, shall be sent by registered or certified mail to the parties within 7 days of the date of the findings. The findings, notice of claim, and record of the hearing shall be preserved in the superior court records after final judgment or final resolution of the case. All medical and provider records shall be returned to the party providing them to the panel.

519-B:8 Mediation. If requested by the parties after the panel issues its findings, the panel chairperson may assist the parties by serving as a mediator.

519-B:9 Confidentiality and Admissibility.

I. Except as provided in this section, all proceedings before the panel, including its final determinations, shall be treated in every respect as private and confidential by the panel and the parties to the claim.

II. The findings and other writings of the panel and any evidence and statements made by a party or a party's representative during a panel hearing are not admissible in court and shall not otherwise be submitted or used for any purpose in a subsequent trial and shall not be publicly disclosed, except:

(a) Any testimony or writings made under oath may be used in subsequent proceedings for purposes of impeachment; and

(b) The party who made the statement or presented the evidence may agree to the submission, use, or disclosure of that statement or evidence.

III. The confidentiality provisions of this section shall not apply if the findings were influenced by fraud.

IV. The deliberations and discussion of the panel and the testimony of any expert, whether called by any party or the panel, shall be privileged and confidential, and no such person may be asked or compelled to testify at a later court proceeding concerning the deliberations, discussions, findings, or expert testimony or opinions expressed during the panel hearing, unless by the party who called and presented the nonparty expert, except such deliberation, discussion, and testimony as may be required to prove an allegation of fraud.

V. The New Hampshire superior court rules shall govern discovery conducted under this chapter. The chairperson has the same authority to rule upon discovery matters as a superior court justice. Notwithstanding paragraph I of this section, in a subsequent superior court action all discovery conducted during the panel proceedings is deemed discovery conducted as a part of that court action.

VI. Medical records shall be available for the investigation of medical injury claims and defenses pursuant to RSA 151:21, X and RSA 332-I:1, I.

519-B:10 Report.

I. The administrative office of the courts shall collect data on medical injury claims and submit a report on the panel process to the committee established in RSA 519-B:11 on or before September 30 of each year. The report shall include information on medical injury cases filed, pending, and resolved during the fiscal year ending on the June 30 preceding the report date, compared to the 5 previous years.

II. The insurance commissioner shall report the average rates of medical liability insurance by specialty for medical care providers in New Hampshire to the committee established in RSA 519-B:11 on or before September 30 of each year.

519-B:11 Medical Malpractice Panel and Insurance Oversight Committee Established.

I. There is established a committee to study medical malpractice insurance rates in this state and the mandatory panels for medical injury claims process.

II. The committee shall consist of 7 members of the house of representatives, appointed by the speaker of the house as follows:

(a) Three members of the house judiciary committee.

(b) Two members of the house health, human services and elderly affairs committee.

(c) Two members of the house commerce committee.

III. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

IV. The committee shall:

(a) Regularly collect, and insurers providing medical malpractice liability insurance coverage to New Hampshire insureds shall provide, complete claims information for claims asserted against New Hampshire insureds, including, but not limited to, the total number of claims made; the amount of each indemnity payment; the amount of the loss adjustment expense for each claim (the costs incurred to handle claims, such as defense, litigation and adjuster costs); and underwriting expenses. Total annual compensation paid to all company officers, directors, and executives shall also be provided.

(b) Review and analyze the information provided pursuant to paragraph I, and may commission studies and make recommendations as appropriate.

(c) Determine the effectiveness of mandatory screening panels for medical injury claims including, but not limited to, whether medical malpractice insurance premiums have been affected and whether there has been any limitation to access to the courts by injured parties.

(d) Seek out information from the chief justice of the superior court or any other relevant sources.

V. The members of the committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Five members of the committee shall constitute a quorum.

VI. Report.

(a) The committee shall analyze the information it receives from the administrative office of the courts and the insurance commissioner and report it annually to the speaker of the house of representatives, the senate president, the house clerk, and the senate clerk.

(b) The committee shall make an interim report of its findings about medical insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2006.

(c) The committee shall make a final report of its findings about medical insurance rates and the mandatory panel process and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2009. The report shall include a recommendation to terminate, continue, or amend RSA 519-B.

2 New Sections; Testimony of Expert Witness; Disclosure of Expert Testimony. Amend RSA 516 by inserting after section 29 the following new sections:

516:29-a Expert Witnesses.

I. A witness shall not be allowed to offer expert testimony, unless the court finds that:

(a) The testimony is based upon sufficient facts or data.

(b) The testimony is the product of reliable principles and methods.

(c) The witness has applied the principles and methods reliably to the facts of the case.

II. In evaluating the basis for proffered expert testimony, the court shall consider, if appropriate to the circumstance, whether the expert's opinion were supported by theories or techniques that have been or can be tested; have been subjected to peer review and publication; have a known or potential rate of error; and are generally accepted in the appropriate scientific literature. In making its findings, the court may consider other factors specific to the proffered testimony.

516:29-b Disclosure of Expert Testimony.

I. A party shall disclose to other parties to a litigation the identity of any person who may be used at trial to present expert testimony.

II. Except as otherwise stipulated, or directed by the court, the disclosure shall be accompanied by a written report signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

III. The disclosure shall be made as directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosure shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to con-

tradict or rebut evidence on the same subject matter identified by another party, within 30 days after the disclosure made by the other party. The parties shall supplement their disclosures as required by the court's rules.

IV. The deposition of any person who has been identified as an expert whose opinions may be presented at trial, and whose testimony has been the subject of a report under this section, shall not be conducted until after such report has been provided.

3 Patient's Bill of Rights; Medical Records. Amend RSA 151:21, X to read as follows:

X. The patient shall be ensured confidential treatment of all information contained in the patient's personal and clinical record, including that stored in an automatic data bank, and the patient's written consent shall be required for the release of information to anyone not otherwise authorized by law to receive it. Medical information contained in the medical records at any facility licensed under this chapter shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. *Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative, with the prior written authorization of the patient. The facility shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the facility shall be allowed an additional 15 days to provide copies of the records.* The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

4 Medical Records; Requests to Obtain. Amend RSA 332-I:1, I to read as follows:

I. The medical information contained in the medical records in the possession of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. *Requests for medical records shall be made in person or in writing via registered mail by the patient, the patient's next of kin if the patient is deceased or incompetent, or the patient's legal representative with the prior written authorization of the patient. The health care provider shall provide copies of records within 30 days. Failure to provide the records within 30 days shall result in a fine of \$100 per day until provided. Upon a showing of good cause, the health care provider shall be allowed an additional 15 days to provide copies of the records.* The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

5 Severability. If any portion of this act shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this act.

6 Repeal. RSA 519-A, relative to professional malpractice claims, is repealed.

7 Repeal. RSA 519-B:11, relative to a committee to study medical malpractice insurance rates and the mandatory medical panel process, is repealed.

8 Effective Date.

I. Section 7 of this act shall take effect December 31, 2009.

II. The remainder of this act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill:

I. Creates mandatory panels for medical injury claims.

II. Establishes a committee to study medical malpractice insurance rates and the effectiveness of the mandatory panel process.

III. Establishes criteria for the testimony of expert witnesses in certain medical injury cases.

IV. Requires parties to a litigation to disclose expert witnesses.

V. Establishes a procedure for a patient to obtain his or her medical records.

VI. Repeals the current hearing panels for professional malpractice claims.

Rep. Craig spoke in favor.

Rep. Mock spoke against.

Rep. Craig requested a roll call; sufficiently seconded.

The question being adoption of the minority amendment (0802h).



## YEAS 113 BELKNAP

None

## CARROLL

Derby, Mark

## CHESHIRE

Allen, Peter  
Meador, David  
Richardson, Barbara

Dunn, James  
Mitchell, McKim  
Robertson, Timothy

Eaton, Daniel  
Parkhurst, Henry  
Tilton, Anna

Espiefs, Peter  
Pratt, John  
Webber, Amy

## COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

## GRAFTON

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Ham, Bonnie  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Cooney, Mary  
Ingbretson, Paul  
Solomon, Peter

## HILLSBOROUGH

Baroody, Benjamin  
Buckley, Raymond  
Dokmo, Cynthia  
Hinkle, Peyton  
Johnson, Lionel  
Luebker, Bernard  
Movsesian, Lori  
Shaw, Barbara  
Sweeney, Cynthia

Bergeron, Jean-Guy  
Cote, David  
Gibson, John  
Holden, Randolph  
Kopka, Angeline  
Malloy, Chris  
Palangas, Eric  
Souza, Kathleen  
Vaillancourt, Steve

Bergin, Peter  
Cote, Peter  
Gorman, Mary  
Irwin, Anne-Marie  
LaFlamme, Paul  
Martin, Mary Ellen  
Pappas, Christopher  
Sullivan, Francis

Brassard, Paul  
Craig, James  
Hagan, Barbara  
Jean, Claudette  
Lasky, Bette  
Mooney, Maureen  
Pilotte, Maurice  
Sullivan, Peter

## MERRIMACK

Bouchard, Candace  
DeStefano, Stephen  
Marple, Richard  
Potter, Frances

Brueggemann, Donald  
French, Barbara  
Osborne, Jessie  
Rush, Deanna

Davis, Frank  
Gile, Mary  
Owen, Derek  
Seldin, Gloria

DeJoie, John  
Hamm, Christine  
Perkins, Randy  
Soltani, Tony

## ROCKINGHAM

Allen, Mary  
Casey, Kimberley  
Norelli, Terie

Bicknell, Elbert  
DiFruscia, Anthony  
Shultis, Elizabeth

Blanchard, MaryAnn  
Itse, Daniel  
Vallone, Matthew

Cady, Harriet  
McEachern, Paul

## STRAFFORD

Beube, Roger  
Grassie, Anne  
Keans, Sandra  
Rous, Emma  
Taylor, Katherine

Bickford, David  
Hofemann, Roland  
Miller, Joseph  
Schmidt, Peter  
Taylor, Kathleen

Creteau, Irene  
Johnson, Nancy  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Dunlap, Patricia  
Kaen, Naida  
Rollo, Deanna  
Spang, Judith

## SULLIVAN

Donovan, Thomas  
Phinizy, James

Ferland, Brenda

Franklin, Peter

Harris, Sandra

## NAYS 202 BELKNAP

Ahern, Omer Jr  
Dewhirst, Glenn  
Lawton, David  
Russell, David

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Pilliod, James  
Wendelboe, Fran

Clark, Charles  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Dickinson, Howard	Kenney, Bettie
McConkey, Mark	Morrow, Harry	Mock, Henry	Olimpio, J Lisbeth
Patten, Betsey	Stevens, Stanley		

**CHESHIRE**

Fish, Douglas	Hunt, John	Laurent, John	Manning, Joseph
Royce, H Charles	Slack, Pamela	Smith, Edwin	

**COOS**

Guay, Lawrence	King, Frederick	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Tholl, John Jr		

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Maybeck, Margie	Naro, Debra	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Beaton, William	Bouchard, David	Brundige, Robert	Bruno, Pierre
Buhlman, David	Carter, Jeffrey	Carter, Mark	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey
Desmarais, Vivian	Dionne, Kimberley	Drisko, Richard	Elliott, Larry
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Gargas, Carolyn
Goyette, Peter Jr	Graham, John	Hall, Charles	Hansen, Ryan
Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr	Hunter, Bruce
Infantine, William	Jasper, Shawn	Kurk, Neal	Lawrence, James
Leach, Edward	Lessard, Rudy	McHugh, Claire	McRae, Karen
Mercer, Robert	Mosher, William	O'Brien, Lori	Pepino, Leo
Price, Pamela	Reeves, Sandra	Rowe, Robert	Scanlon, Michael
Slocum, Lee	Spiess, Paul	Stepanek, Stephen	Tahir, Saghir
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Field, William	Foley, Albert
Fraser, Leo Jr	Hager, Elizabeth	Hess, David	Jacobson, Alf
Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen	Leber, William
Lockwood, Priscilla	MacKay, James	Maxfield, Roy	McCormick, Tom
Nutter, Edward	Oliver, James		

**ROCKINGHAM**

Belanger, Ronald	Camm, Kevin	Carson, Sharon	Clark, Vivian
Coes, Betsy	Dalrymple, Janeen	Dodge, Robert	Dowd, John
Doyle, Christopher	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gilbert, Karl	Gillick, Thomas	Gleason, John
Gould, Kenneth	Griffin, Mary	Hamel, Albert	Headd, James
Hughes, Daniel	Ingram, Russell	Introne, Robert	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Kelley, Jane	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
McKinney, Betsy	McMahon, Charles	Morris, Richard	O'Neil, Michael
Packard, Sherman	Pantelakos, Laura	Priestley, Anne	Putnam, Ed II
Quandt, Matthew	Rausch, James	Robertson, Carl	Roessner, Kurt
Ruffner, Walter	Smith, Donald	Smith, Paul	Splaine, James
Stone, Joseph	Tufts, J Arthur	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weyler, Kenneth	Wiley, Robert	Winchell, George
Zolla, William			

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Knowles, William  
Twombly, James

Bemis, Alan  
Easson, Timothy  
Musler, George  
Woods, Phyllis

Brown, Julie  
Harrington, Michael  
Newton, Clifford

Callaghan, Frank  
Hollinger, Jeffrey  
Scott, David

**SULLIVAN**

Harris, Joseph  
and minority amendment (0802h) failed.

Jones, Constance

Leone, Richard

Rodeschin, Beverly

Majority committee report adopted and ordered to third reading.

**SUSPENSION OF RULES**

Reps. Hess and Nordgren moved that the Rules be so far suspended as to allow late reporting from committee and consideration after the deadline of *HJR 25*, requested by the joint legislative committee on administrative rules, relative to a certain rule proposed by the department of transportation, and *HJR 26*, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

Adopted by the necessary two-thirds.

**RESOLUTION**

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, March 18, 2004 at 10:00 a.m.

Adopted.

**LATE SESSION****Third reading and final passage**

*HB 1312* relative to the court's discretion to extend child support obligations.

*HB 1202*, relative to third-party payment of covered services ordered by the juvenile court.

*HB 1282*, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

*HB 1348-FN*, relative to registration of business organizations.

*HB 1257-FN*, relative to penalties for driving under the influence with a minor in the vehicle.

*HB 1326*, establishing a study committee to examine the classification of consumer and display fireworks.

*HB 1361*, relative to sentences for certain offenses committed on or near a public college or university campus.

*HB 1367*, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

*HB 1380-FN*, relative to unauthorized video surveillance.

*HB 1159*, relative to prohibited employment for state liquor commission employees.

*HB 1364-FN*, establishing a statutory joint commission to review and propose changes to state unclassified officers' salaries.

*SB 493* repealing examination standards for certified public accountants.

*HB 640-FN*, relative to post-conviction DNA testing.

*HB 1241*, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care.

*HB 1399-FN-A*, establishing the telecommunications planning and development fund.

*HB 1411-FN-A*, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

*SB 472*, relative to updating the terminology in statutes affecting children with special health care needs.

*HB 1394*, relative to de novo appeals in certain criminal proceedings.

*SB 479*, commemorating the anniversary of the founding of the United States Marine Corps.

*HB 1316-FN-A*, relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.

**HB 1393**, relative to the appeal of the lower court's decision in a child protection case.

**HB 1162**, relative to school district policies on bullying.

**HB 1226-L**, establishing a debt retirement fund in the Governor Wentworth regional school district.

**HB 1419**, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services.

**HB 1424-FN-A**, establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.

**HB 698-FN**, relative to electronic toll collections.

**HB 1188**, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.

**HB 1207-FN-A**, relative to a Global War on Terrorism operations service bonus payment.

**HB 1423-FN**, relative to reimbursement of travel expenses for judges.

**HB 1413**, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

### UNANIMOUS CONSENT

Reps. Peter Sullivan, Peter Solomon and Kennedy addressed the House.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.  
Adopted.

The House recessed at 4:05 p.m.

### RECESS

### (Speaker Chandler in the Chair)

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 9

Thursday, March 18, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

His Excellency, Governor Craig Benson, joined the Speaker on the rostrum for the day's opening ceremonies.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

The gift of freedom that You have bestowed upon us, O Blessed Creator of the Universe, given humanity's penchant for self-gratification is never guaranteed. May the free choices made in this honorable House today benefit the many and not the few, that our precious freedoms may not be diminished by self-interest, but enhanced by compassion and care for all the citizens of our beloved New Hampshire. Amen.

Rep. Constance A. Jones led the Pledge of Allegiance.

The National Anthem was sung by Matthew Bickford, a senior at Laconia High School.

### LEAVES OF ABSENCE

Reps. Allison, Carlson, Flanagan, Ford, Hallyburton, Kelley, Lefebvre, Pitts, Scamman, Schulze and Weldy, the day, illness.

Reps. Timothy Allen, Balcom, Burling, Cernota, Corbin, Currier, Dorsett, Donald Flanders, Flint, Jeffrey Gilbert, Itse, Kaen, Phyllis Katsakaiores, Katsiantonis, Robert Laflam, Lawton, Lessard, McCann, Moran, Musler, Ober, Owen, Ross, Stohl, Wallner and Weed, the day, important business.

### INTRODUCTION OF GUESTS

Collin Campbell and Steven Bilodeau of Concord Christian School and Katie Wilson of Concord High School, Pages for the Day. George and Katharine Shultis, husband and granddaughter of Rep. Shultis.

### INTRODUCTION OF SPECIAL GUEST

Sergeant First Class Dianne Hogan, 368<sup>th</sup> Engineer Battalion, who recently returned from the Middle East, and her husband, Lieutenant Colonel Michael Hogan, daughter and son-in- of Rep. Lawrence Emerton.

### CLERK'S NOTE

When less than two-thirds of the elected membership is present, Part II, Article 20 of the state constitution requires the assent of two-thirds of those present and voting to render their acts and proceedings valid.

### REGULAR CALENDAR

**HB 1187-L**, allowing municipalities to deposit land use change tax revenues into a heritage fund. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. David L. Buhlman for the Majority of Municipal and County Government: Any local legislative body may establish a heritage committee pursuant to RSA 673:1 which is modeled after the conservation commission pursuant to RSA 36-A and is funded by a yearly appropriation in the budget. This bill would allow municipalities to vote to deposit a specific percentage of the land use change tax, instead of the yearly appropriation, into the heritage fund. This mirrors the same procedure as the conservation commissions currently implement at the local level. The committee felt that this might end up pitting the heritage commission against the conservation commission since they would be requesting funds from the same land use change tax. The present situation of having to receive yearly appropriations devoted to the heritage commission from the local legislative body seemed the most reasonable to the majority of the committee. Vote 10-4.

Rep. Mary R. Cooney for the Minority of Municipal and County Government: The land use change which is tax collected when land is taken out of current use is revenue which is unanticipated and

therefore not designated for any particular purpose. The legislative body of the municipality can vote to deposit all or a percentage of the land use change tax into the conservation fund. This bill simply adds the possibility of designating a portion of the land use change tax to a heritage fund. The advantage of using a portion of these funds is that the legislative body would not to vote to raise taxes to fund the commission but rather would let it be funded as such revenues were generated. Majority committee report adopted by the necessary two-thirds.

### CLERK'S NOTE

The constitutionally required two-thirds of the membership for action by majority vote was declared present.

### SPECIAL ORDERS FROM MARCH 11, 2004

**HB 1328**, requiring the development of a plan for the elimination of county government by the year 2011. **INEXPEDIENT TO LEGISLATE**

Rep. Robert W. Brundige for Municipal and County Government: This bill requires various state agencies and the judiciary to develop a plan for the transfer of county functions to state government. The plans shall be submitted by Oct 1, 2006 for proposals on implementation by the legislature by 2011. This bill would start the process of eliminating county government. Much testimony was received outlining the benefits of maintaining county government citing the efficiency of the counties as they are presently operating and the benefits of local control and the professionalism of the county employees. The committee agreed the present county system is working well and should be allowed to continue. An amendment was offered also establishing a county study committee with an earlier reporting date. This amendment was also rejected by the committee. Testimony was received that approximately 15 bills to study or eliminate county government have been submitted to the Legislature in the last 30 years. An Interim Study of HB 681, regarding how county appropriations are calculated is already in process. Vote 14-0.

Reps. Jacobson and Buckley spoke against.

Reps. Brundige and Patten spoke in favor.

Rep. Buckley requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

### YEAS 225 NAYS 103

#### YEAS 225

#### BELKNAP

Allen, Janet	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Dewhirst, Glenn	Fitzgerald, James	Holbrook, Robert	Nedeau, Stephen
Pilliod, James	Rice, Thomas	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

#### CARROLL

Brown, Carolyn	Derby, Mark	Dickinson, Howard	Kenney, Bettie
McConkey, Mark	Merrow, Harry	Mock, Henry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

#### CHESHIRE

Allen, Peter	Eaton, Daniel	Fish, Douglas	Laurent, John
Liebl, George	Manning, Joseph	Meador, David	Mitchell, McKim
Pratt, Irene	Royce, H Charles	Slack, Pamela	Smith, Edwin
Tilton, Anna	Webber, Amy		

#### COOS

Brady, Mark	King, Frederick	Mears, Edgar	Pratt, Leighton
Richardson, Herbert	Tholl, John Jr	Woodward, David	

#### GRAFTON

Akins, Ralph	Alger, John	Almy, Susan	Dudley, Terri
Gilman, G Michael	Gionet, Edmond	Giuda, Robert	Ingretson, Paul
Maybeck, Margie	Naro, Debra	Sorg, Gregory	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Artz, Lawrence	Balboni, Michael
Baroody, Benjamin	Barry, J Gail	Batula, Peter	Bergeron, Jean-Guy
Brassard, Paul	Brundige, Robert	Bruno, Pierre	Buhlman, David
Carter, Jeffrey	Carter, Mark	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Cote, Peter	Coughlin, Pamela	Dionne, Kimberley
Emerton, Larry	Fields, Dennis	Fletcher, Richard	Gargas, Carolyn
Gibson, John	Goyette, Peter Jr	Graham, John	Greenberg, Gary
Hagan, Barbara	Haley, Robert	Hall, Charles	Harrington, Paul
Hawkins, Ken	Hinkle, Peyton	Hopper, Gary	Jasper, Shawn
Johnson, Lionel	Kurk, Neal	LaFlamme, Paul	Lawrence, James
Luebker, Bernard	McElroy, Henry Jr	McHugh, Claire	McRae, Karen
Mercer, Robert	Messier, Irene	Mooney, Maureen	Mosher, William
O'Brien, Lori	Pappas, Marc	Price, Pamela	Reeves, Sandra
Rowe, Robert	Scanlon, Michael	Stepanek, Stephen	Tahir, Saghir
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Bouchard, Candace	Clarke, Claire	Daniels, Eric
Dunne, Christopher	Field, William	Fraser, Leo Jr	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Hess, David	Kenison, Leon
Kennedy, Richard	L'Heureux, Stephen	Leber, William	Lockwood, Priscilla
MacKay, James	Marple, Richard	Maxfield, Roy	Nutter, Edward
Oliver, James	Osborne, Jessie	Rush, Deanna	

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bishop, Franklin
Bridle, Russell	Cady, Harriet	Carson, Sharon	Clark, Vivian
Coes, Betsy	Dalrymple, Janeen	DiFruscia, Anthony	Dowd, John
Duffy, James	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Francoeur, Sheila	Gillick, Thomas	Gould, Kenneth	Griffin, Mary
Headd, James	Holland, James Jr	Hughes, Daniel	Ingram, Russell
Introne, Robert	Johnson, Robert	Johnson, Rogers	Katsakiores, George
Kobel, Rudolph	Letourneau, Robert	Major, Norman	Manning, John
McKinney, Betsy	McMahon, Charles	Moore, Benjamin	Noyes, Richard
O'Neil, Michael	Packard, Sherman	Pantelakos, Laura	Priestley, Anne
Putnam, Ed II	Quandt, Matthew	Rausch, James	Robertson, Carl
Roessner, Kurt	Smith, Donald	Smith, Paul	Stone, Joseph
Tufts, J Arthur	Varrell, Thomas	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weyler, Kenneth	Winchell, George	Zolla, William

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Campbell, W Packy	Cataldo, Sam	Creteau, Irene	Dunlap, Patricia
Easson, Timothy	Grassie, Anne	Heon, Richard	Hofemann, Roland
Johnson, Nancy	Knowles, William	Newton, Clifford	Pelletier, Arthur
Rous, Emma	Schmidt, Peter	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Twombly, James	Wall, Janet	Woods, Phyllis

**SULLIVAN**

Ferland, Brenda	Harris, Joseph	Harris, Sandra	Jones, Constance
Leone, Richard	Phinizy, James	Rodeschin, Beverly	

**NAYS 103****BELKNAP**

None

**CARROLL**

Babson, David Jr	Hatch, Paul
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**CHESHIRE**

Dunn, James	Espiefs, Peter	Hunt, John	Parkhurst, Henry
Pratt, John	Richardson, Barbara	Robertson, Timothy	

**COOS**

Guay, Lawrence	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Barker, Robert	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Eaton, Stephanie	Ham, Bonnie
Hammond, Lee	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Williams, Burton		

**HILLSBOROUGH**

Arnold, Thomas Jr	Beaton, William	Bergin, Peter	Bouchard, David
Buckley, Raymond	Cote, David	Craig, James	Dokmo, Cynthia
Drisko, Richard	Elliott, Larry	Gorman, Mary	Haytayan, Harry Jr
Holden, Randolph	Hunter, Bruce	Infantine, William	Irwin, Anne-Marie
Jean, Claudette	Kopka, Angeline	L'Heureux, Robert	Lasky, Bette
Leach, Edward	Malloy, Chris	Martin, Mary Ellen	Michon, Stephen
Movsesian, Lori	Pappas, Christopher	Pepino, Leo	Pilote, Maurice
Slocum, Lee	Spiess, Paul	Sullivan, Francis	Sullivan, Peter
Sweeney, Cynthia	Tate, Joan	Vaillancourt, Steve	

**MERRIMACK**

Blanchard, Elizabeth	Brueggemann, Donald	Davis, Frank	DeJoie, John
DeStefano, Stephen	Foley, Albert	Jacobson, Alf	Langer, Ray
McCormick, Tom	Perkins, Randy	Potter, Frances	Reardon, Tara
Rodd, Beth	Seldin, Gloria	Soltani, Tony	

**ROCKINGHAM**

Blanchard, MaryAnn	Camm, Kevin	Casey, Kimberley	Cooney, Richard
Dodge, Robert	Gilbert, Karl	Gleason, John	Hamel, Albert
Langley, Jane	Langone, John	McEachern, Paul	Norelli, Terie
Shultis, Elizabeth	Splaine, James	Wiley, Robert	

**STRAFFORD**

Albert, Russell	Bickford, David	Harrington, Michael	Hollinger, Jeffrey
Keans, Sandra	Miller, Joseph	Rollo, Deanna	Scott, David

**SULLIVAN**

Cloutier, John	Donovan, Thomas	Franklin, Peter
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and the committee report was adopted.

**HB 1405-L**, relative to requiring municipalities to use official ballot voting procedures for bond issues. **INEXPEDIENT TO LEGISLATE**

Rep. Kenneth H. Gould for Municipal and County Government: This bill would require all municipalities and school districts to vote bond issue questions by the official ballot procedures in accordance with RSA 40:13, also known as SB2, even though such a municipality or school district had not adopted those procedures. Also a 3/5 vote, instead of the 2/3 vote, for all notes and bonds would automatically be in effect with no input from the municipalities or school districts. The committee also concluded that Part I, Article 39, which deals with changes in the form of government of any town or city, would be violated. Vote 15-0.

Rep. Dodge spoke against and yielded to questions.

Rep. Patten spoke in favor.

Rep. Dodge requested a roll call; sufficiently seconded.

The question being adoption of the committee report.



**YEAS 265 NAYS 71****YEAS 265****BELKNAP**

Allen, Janet  
Holbrook, Robert  
Russell, David

Bartlett, Gordon  
Nedeau, Stephen  
Thomas, John

Boyce, Laurie  
Pilliod, James  
Whalley, Michael

Fitzgerald, James  
Rice, Thomas

**CARROLL**

Brown, Carolyn  
McConkey, Mark  
Philbrick, Donald

Derby, Mark  
Merrow, Harry  
Stevens, Stanley

Hatch, Paul  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Manning, Joseph  
Royce, H Charles  
Webber, Amy

Dunn, James  
Hunt, John  
Mitchell, McKim  
Slack, Pamela

Eaton, Daniel  
Laurent, John  
Parkhurst, Henry  
Smith, Edwin

Espiefs, Peter  
Liebl, George  
Richardson, Barbara  
Tilton, Anna

**COOS**

Guay, Lawrence  
Pratt, Leighton  
Woodward, David

King, Frederick  
Richardson, Herbert

Mears, Edgar  
Theberge, Robert

Poulin, Richard  
Tholl, John Jr

**GRAFTON**

Alger, John  
Cooney, Mary  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Dudley, Terri  
Hammond, Lee  
Nordgren, Sharon  
Sorg, Gregory

Benn, Bernard  
Gilman, G Michael  
Ingbretson, Paul  
Scovner, Nancy  
Williams, Burton

Bleyler, Ruth  
Gionet, Edmond  
Maybeck, Margie  
Sokol, Hilda

**HILLSBOROUGH**

Allan, Nelson  
Barry, J Gail  
Brassard, Paul  
Buhlman, David  
Chabot, Robert  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Greenberg, Gary  
Harrington, Paul  
Holden, Randolph  
Jasper, Shawn  
Kurk, Neal  
Malloy, Chris  
McRae, Karen  
Mosher, William  
Pappas, Marc  
Spiess, Paul  
Tahir, Saghir

Arnold, Thomas Jr  
Beaton, William  
Brundige, Robert  
Cail, Kenneth  
Christensen, D L Chris  
Craig, James  
Drisko, Richard  
Gorman, Mary  
Hagan, Barbara  
Hawkins, Ken  
Hopper, Gary  
Jean, Claudette  
LaFlamme, Paul  
Martin, Mary Ellen  
Messier, Irene  
Movsesian, Lori  
Price, Pamela  
Sullivan, Francis  
Vaillancourt, Steve

Artz, Lawrence  
Bergin, Peter  
Bruno, Pierre  
Carter, Jeffrey  
Cote, David  
Desmarais, Vivian  
Fields, Dennis  
Goyette, Peter Jr  
Haley, Robert  
Haytayan, Harry Jr  
Infantine, William  
Johnson, Lionel  
Lasky, Bette  
McElroy, Henry Jr  
Michon, Stephen  
O'Brien, Lori  
Reeves, Sandra  
Sullivan, Peter  
Wheeler, Robert

Balboni, Michael  
Bouchard, David  
Buckley, Raymond  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Fletcher, Richard  
Graham, John  
Hansen, Ryan  
Hinkle, Peyton  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
McHugh, Claire  
Mooney, Maureen  
Pappas, Christopher  
Souza, Kathleen  
Sweeney, Cynthia

**MERRIMACK**

Blanchard, Elizabeth  
Davis, Frank  
Fraser, Leo Jr

Bouchard, Candace  
DeJoie, John  
French, Barbara

Clarke, Claire  
DeStefano, Stephen  
Gile, Mary

Daniels, Eric  
Dunne, Christopher  
Hager, Elizabeth

Hamm, Christine  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward  
Potter, Frances  
Seldin, Gloria

Hess, David  
Langer, Ray  
Marple, Richard  
Oliver, James  
Reardon, Tara

Kenison, Leon  
Leber, William  
Maxfield, Roy  
Osborne, Jessie  
Rodd, Beth

Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom  
Perkins, Randy  
Rush, Deanna

## ROCKINGHAM

Bicknell, Elbert  
Cady, Harriet  
Coes, Betsy  
Dowd, John  
Gilbert, Karl  
Griffin, Mary  
Introne, Robert  
Kobel, Rudolph  
Major, Norman  
Moore, Benjamin  
Pantelakos, Laura  
Robertson, Carl  
Splaine, James  
Waterhouse, Kevin  
Zolla, William

Bishop, Franklin  
Carson, Sharon  
Cooney, Richard  
Dumaine, Dudley  
Gillick, Thomas  
Headd, James  
Johnson, Robert  
Langley, Jane  
Manning, John  
Noyes, Richard  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Welch, David

Blanchard, MaryAnn  
Casey, Kimberley  
Dalrymple, Janeen  
Flanders, John Sr  
Gleason, John  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
McKinney, Betsy  
O'Neil, Michael  
Putnam, Ed II  
Shultis, Elizabeth  
Tufts, J Arthur  
Wiley, Robert

Bridle, Russell  
Clark, Vivian  
DiFruscia, Anthony  
Francoeur, Sheila  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert  
McMahon, Charles  
Packard, Sherman  
Rausch, James  
Smith, Paul  
Varrell, Thomas  
Winchell, George

## STRAFFORD

Bemis, Alan  
Creteau, Irene  
Harrington, Michael  
Keans, Sandra  
Rollo, Deanna  
Spang, Judith  
Wall, Janet

Bickford, David  
Dunlap, Patricia  
Heon, Richard  
Miller, Joseph  
Rous, Emma  
Taylor, Katherine  
Woods, Phyllis

Brown, Julie  
Easson, Timothy  
Hofemann, Roland  
Newton, Clifford  
Schmidt, Peter  
Taylor, Kathleen

Callaghan, Frank  
Grassie, Anne  
Johnson, Nancy  
Pelletier, Arthur  
Snyder, Clair  
Twombly, James

## SULLIVAN

Cloutier, John  
Harris, Sandra

Donovan, Thomas  
Jones, Constance

Ferland, Brenda  
Leone, Richard

Harris, Joseph  
Rodeschin, Beverly

## NAYS 71

## BELKNAP

Clark, Charles

Dewhirst, Glenn

Wendelboe, Fran

## CARROLL

Babson, David Jr

Dickinson, Howard

Mock, Henry

## CHESHIRE

Meador, David

Pratt, Irene

Pratt, John

Robertson, Timothy

## COOS

Brady, Mark

## GRAFTON

Akins, Ralph  
Eaton, Stephanie

Barker, Robert  
Ham, Bonnie

Densmore, Edward

Diamond, Estelle

## HILLSBOROUGH

Adams, Jarvis  
Christiansen, Lars  
Hall, Charles

Baroody, Benjamin  
Crane, Elenore Casey  
Hunter, Bruce

Batula, Peter  
Elliott, Larry  
L'Heureux, Robert

Bergeron, Jean-Guy  
Gibson, John  
Lawrence, James

Luebker, Bernard  
Rowe, Robert  
Tate, Joan

Mercer, Robert  
Scanlon, Michael  
Wheeler, James

Pepino, Leo  
Slocum, Lee

Pilotte, Maurice  
Stepanek, Stephen

### MERRIMACK

Anderson, Eric  
Jacobson, Alf

Brueggemann, Donald  
Soltani, Tony

Field, William

Foley, Albert

### ROCKINGHAM

Allen, Mary  
Fesh, Bob  
Morris, Richard  
Smith, Donald

Camm, Kevin  
Hamel, Albert  
Norelli, Terie  
Vallone, Matthew

Dodge, Robert  
Hughes, Daniel  
Quandt, Matthew  
Weare, E Albert

Duffy, James  
McEachern, Paul  
Ruffner, Walter  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Hollinger, Jeffrey

Berube, Roger  
Knowles, William

Campbell, W Packy  
Scott, David

Cataldo, Sam  
Smith, Marjorie

### SULLIVAN

Franklin, Peter  
and the committee report was adopted.

### **HB 1221, establishing a committee to study repealing universal service telephone charges. OUGHT TO PASS WITH AMENDMENT**

Rep. Lawrence C. Ross for Science, Technology and Energy: Less than half of the monies collected by telephone providers through the Universal Service Funding (USF) are returned to the state of New Hampshire for program purposes such as telecommunication services for schools and libraries, high cost rural areas, low income customers, and rural health care providers. This bill urges the Telecommunications Oversight Committee to study the reason for the net loss of USF funds and to identify viable ways of remedying the situation. Vote 11-0.

### **Amendment (0455h)**

Amend the title of the bill by replacing it with the following:

AN ACT urging the oversight committee on telecommunications to study aspects of federal universal service funding.

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The purpose of the federal universal service fund is to provide, on a national basis, affordable telecommunication services to schools and libraries, to high cost rural areas, to people of low income, and to rural health care providers. The general court finds that less than half of the money provided to this fund by New Hampshire residents and businesses, through their service providers, is returned to the state for program purposes. This amounts to an annual net outflow from the state of approximately \$18,000,000. Of particular concern is that less than 10 percent of the monies contributed from New Hampshire and allocated within the federal fund to support schools and libraries ends up returning to the state to help New Hampshire's schools and libraries.

2 Oversight Committee on Telecommunications Study. The oversight committee on telecommunications, established in RSA 374:22-h, is hereby urged to study the reasons for the net loss of money from the state, as described in section 1 of this act, and to identify viable ways of remedying the situation, whether by:

I. Decreasing payments to the fund, if possible.

II. Advocating for revised program grant criteria that would be more favorable to applicants from New Hampshire.

III. Implementing a coordinated, statewide effort to increase the number of successful applications to the fund by eligible New Hampshire parties.

3 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill urges the oversight committee on telecommunications to study aspects of federal universal service funding.

Rep. McElroy spoke against and yielded to questions.

Rep. Thomas spoke in favor.

Adopted.

Report adopted and ordered to third reading.

### REGULAR CALENDAR (CONT'D.)

**CACR 22**, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth. **REFER FOR INTERIM STUDY**

Rep. Jeffrey D. Gilbert for Ways and Means: The committee was presented with conflicting testimony on the history and current experience of the state of Colorado which is the only state that has adopted a similar constitutional amendment. The bill, as drafted, had a number of technical problems and sought to both limit spending and tax increases. An amendment was adopted by the committee that deleted the spending limits. Notwithstanding the amendment's modification, a strong bi-partisan majority of the committee felt that further study of the remaining proposed limits on the legislature's constitutional power to establish and modify tax policy was required. Currently, both Colorado and California are addressing similar issues to this bill. The committee believes that it is important to New Hampshire to study the course of action that these states choose before proceeding with this legislation. Vote 15-3.

Rep. Bicknell requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

### YEAS 269 NAYS 66

#### YEAS 269

#### BELKNAP

Allen, Janet	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Fitzgerald, James	Holbrook, Robert	Nedeau, Stephen	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Whalley, Michael

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Hatch, Paul	Kenney, Bettie	McConkey, Mark	Morrow, Harry
Mock, Henry	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

#### CHESHIRE

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Hunt, John	Laurent, John	Liebl, George	Manning, Joseph
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Robertson, Timothy	Royce, H Charles	Slack, Pamela
Smith, Edwin	Tilton, Anna	Webber, Amy	

#### COOS

Guay, Lawrence	King, Frederick	Mears, Edgar	Poulin, Richard
Pratt, Leighton	Richardson, Herbert	Theberge, Robert	Tholl, John Jr
Woodward, David			

#### GRAFTON

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Dudley, Terri
Gionet, Edmond	Giuda, Robert	Ham, Bonnie	Hammond, Lee
Maybeck, Margie	Naro, Debra	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Williams, Burton		

#### HILLSBOROUGH

Arnold, Thomas Jr	Artz, Lawrence	Baroody, Benjamin	Barry, J Gail
Batula, Peter	Bergin, Peter	Bouchard, David	Brassard, Paul
Brundige, Robert	Buckley, Raymond	Cail, Kenneth	Carter, Jeffrey

Carter, Mark  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Gibson, John  
Greenberg, Gary  
Haytayan, Harry Jr  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Mercer, Robert  
O'Brien, Lori  
Price, Pamela  
Souza, Kathleen  
Sullivan, Peter  
Wheeler, Robert

Chabot, Robert  
Cote, Peter  
Dionne, Kimberley  
Fields, Dennis  
Gorman, Mary  
Haley, Robert  
Holden, Randolph  
Jasper, Shawn  
Kurk, Neal  
Malloy, Chris  
Messier, Irene  
Pappas, Christopher  
Reeves, Sandra  
Spiess, Paul  
Sweeney, Cynthia

Christensen, D L Chris  
Coughlin, Pamela  
Dokmo, Cynthia  
Fletcher, Richard  
Goyette, Peter Jr  
Hall, Charles  
Hunter, Bruce  
Jean, Claudette  
L'Heureux, Robert  
McElroy, Henry Jr  
Michon, Stephen  
Pappas, Marc  
Rowe, Robert  
Stepanek, Stephen  
Tahir, Saghir

Christiansen, Lars  
Craig, James  
Elliott, Larry  
Gargas, Carolyn  
Graham, John  
Harrington, Paul  
Infantine, William  
Johnson, Lionel  
Lawrence, James  
McHugh, Claire  
Movsesian, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Francis  
Tate, Joan

### MERRIMACK

Anderson, Eric  
Daniels, Eric  
Fraser, Leo Jr  
Hess, David  
Langer, Ray  
Maxfield, Roy  
Perkins, Randy  
Rush, Deanna

Bouchard, Candace  
Davis, Frank  
Gile, Mary  
Jacobson, Alf  
Leber, William  
McCormick, Tom  
Potter, Frances  
Seldin, Gloria

Brueggemann, Donald  
DeJoie, John  
Hager, Elizabeth  
Kenison, Leon  
Lockwood, Priscilla  
Oliver, James  
Reardon, Tara

Clarke, Claire  
DeStefano, Stephen  
Hamm, Christine  
L'Heureux, Stephen  
MacKay, James  
Osborne, Jessie  
Rodd, Beth

### ROCKINGHAM

Allen, Mary  
Bridle, Russell  
Cooney, Richard  
Dowd, John  
Gilbert, Karl  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Major, Norman  
Moore, Benjamin  
O'Neil, Michael  
Robertson, Carl  
Smith, Donald  
Vallone, Matthew  
Wiley, Robert

Belanger, Ronald  
Carson, Sharon  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Kobel, Rudolph  
Manning, John  
Morris, Richard  
Pantelakos, Laura  
Roessner, Kurt  
Splaine, James  
Waterhouse, Kevin  
Zolla, William

Bicknell, Elbert  
Casey, Kimberley  
DiFruscia, Anthony  
Flanders, John Sr  
Gleason, John  
Headd, James  
Johnson, Robert  
Langley, Jane  
McEachern, Paul  
Norelli, Terie  
Priestley, Anne  
Ruffner, Walter  
Stone, Joseph  
Weare, E Albert

Blanchard, MaryAnn  
Coes, Betsy  
Dodge, Robert  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
McKinney, Betsy  
Noyes, Richard  
Rausch, James  
Shultis, Elizabeth  
Tufts, J Arthur  
Welch, David

### STRAFFORD

Albert, Russell  
Callaghan, Frank  
Dunlap, Patricia  
Johnson, Nancy  
Pelletier, Arthur  
Scott, David  
Taylor, Katherine

Bemis, Alan  
Campbell, W Packy  
Grassie, Anne  
Keans, Sandra  
Rollo, Deanna  
Smith, Marjorie  
Taylor, Kathleen

Berube, Roger  
Cataldo, Sam  
Heon, Richard  
Knowles, William  
Rous, Emma  
Snyder, Clair  
Twombly, James

Bickford, David  
Creteau, Irene  
Hofemann, Roland  
Miller, Joseph  
Schmidt, Peter  
Spang, Judith  
Wall, Janet

### SULLIVAN

Cloutier, John  
Harris, Joseph  
Phinizy, James

Donovan, Thomas  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

### NAYS 66 BELKNAP

Dewhirst, Glenn                      Wendelboe, Fran

### CARROLL

Olimpio, J Lisbeth

### CHESHIRE

Fish, Douglas                      Richardson, Barbara

### COOS

Brady, Mark

### GRAFTON

Alger, John	Barker, Robert	Eaton, Stephanie	Gilman, G Michael
Ingbreton, Paul	Sorg, Gregory		

### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Balboni, Michael	Beaton, William
Bergeron, Jean-Guy	Bruno, Pierre	Buhlman, David	Crane, Elenore Casey
Drisko, Richard	Hagan, Barbara	Hansen, Ryan	Hawkins, Ken
Hopper, Gary	LaFlamme, Paul	Lasky, Bette	Luebker, Bernard
Martin, Mary Ellen	McRae, Karen	Mooney, Maureen	Mosher, William
Pepino, Leo	Slocum, Lee	Vaillancourt, Steve	Wheeler, James

### MERRIMACK

Blanchard, Elizabeth	Dunne, Christopher	Field, William	Foley, Albert
Kennedy, Richard	Marple, Richard	Nutter, Edward	Soltani, Tony

### ROCKINGHAM

Bishop, Franklin	Cady, Harriet	Camm, Kevin	Clark, Vivian
Duffy, James	Dumaine, Dudley	Introne, Robert	Letourneau, Robert
McMahon, Charles	Packard, Sherman	Putnam, Ed II	Quandt, Matthew
Smith, Paul	Varrell, Thomas	Weyler, Kenneth	Winchell, George

### STRAFFORD

Brown, Julie	Easson, Timothy	Harrington, Michael	Hollinger, Jeffrey
Newton, Clifford	Woods, Phyllis		

### SULLIVAN

None

and the committee report was adopted.

Reps. Lasky and Martin voted Nay and intended to vote Yea.

**HB 1416-FN**, relative to a permanent property tax exemption for wooden poles and conduits.  
**MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Kurt J. Roessner for the Majority of Ways and Means: This amended bill temporarily extends an exemption from property tax on wooden poles and conduits which are owned by telephone companies and establishes a study committee to further examine the exemption. The current exemption will lapse on July 1, 2004. The exemption, a well-considered tax policy, was established in 1998 and traces back to the enactment of the Communications Services Tax (CST). The CST was designed to level the competitive playing field between the regulated wireline business and the unregulated wireless business and replaced the state's personal property tax on poles and conduits. Today the CST generates over six times as much revenue as the personal property tax did. The health of the regulated wireline industry is crucial to the well being of our economy and it has been in decline for several years. The regulated wireline phone companies in New Hampshire have approximately 850,000 wire access lines and are declining by over 35,000 a year resulting in net

operating losses for the companies. It should be noted that the regulated telecommunications industry in New Hampshire consists of nine service providers who all face the pressures of today's regulated telecommunications marketplace. The unregulated wireless telecommunications industry in New Hampshire have approximately 600,000 access lines and are growing. A 2003 study committee overwhelmingly recommended a permanent exemption from the property tax, since repealing the exemption would authorize a new local property tax and this new tax could be passed on to wireline telephone customers and/or lead to a further deterioration of New Hampshire's wireline telecommunications industry. Despite this recommendation, Ways and Means uncovered additional concerns and considerations during its deliberations and the bill was amended to make the exemption temporary, lapsing in 2006. The amended bill establishes a study committee to examine concerns raised by the minority, including whether the exemption should be continued; the feasibility of sharing CST revenues with local communities; public policy issues involving regulated wireline communications companies; and potential assessment methodologies for wooden poles and conduits. The majority of Ways and Means believes we should not implement irreversible tax policy on such an important matter without a thorough understanding of the consequences. Vote 12-6.

Rep. John M. Gibson for the Minority of Ways and Means: This legislation continues a corporate tax loophole created by the legislature in 1990. Currently, poles owned by non-telephone utilities, pay state and local property taxes while poles owned by telephone companies are exempted from paying property taxes resulting in millions less in revenues that local government could use to ease the burden of property taxes. In a year when many homeowners are having a hard time paying their property taxes, it is blatantly unfair for a multi-million dollar industry to be exempted from paying their fair share. Some find it distasteful to extend this form of corporate welfare for another 2 years. I strongly urge you to support your communities over big corporate special interest groups.

### **Majority Amendment (0564h)**

Amend the title of the bill by replacing it with the following:

AN ACT extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.

Amend the bill by replacing all after the enacting clause with the following:

1 Prospective Repeal Date Extended for Exemption of Wooden Poles and Conduits Under RSA 72:8-b. Amend 1998, 304:6, I as amended by 1999, 163:7, 2001, 158:2, and 2003, 270:8 to read as follows:

I. Section 5 of this act shall take effect July 1, ~~2004~~ 2006.

2 Committee Established. There is established a committee to study issues related to the property tax exemption for wooden poles and conduits.

3 Membership and Compensation.

I. The members of the committee shall be as follows:

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

4 Duties.

I. The committee shall consider issues related to the property tax exemption for wooden poles and conduits, including but not limited to:

- (a) Whether the property tax exemption for wooden poles and conduits should be continued.
- (b) The feasibility of sharing communications services tax and potential property tax revenues between local communities and the state.
- (c) Wireline companies profits, the pass through to customers of any property tax, and the public benefits provided by wireline companies and the property tax exemption.
- (d) Methods to access and assess poles.

II. The public utilities commission shall provide information and assistance to the committee, upon the request of the committee.

5 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

6 Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

7 Effective Date.

I. Section 1 of this act shall take effect June 30, 2004.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill extends the prospective repeal of the property tax exemption for wooden poles and conduits to July 1, 2006.

The bill also establishes a study committee on issues related to the property tax exemption for wooden poles and conduits.

Majority amendment adopted.

Reps. Gibson, Vaillancourt, Hughes and Robert Wheeler spoke against and yielded to questions.

Reps. Espieffs spoke against.

Reps. Roessner, DeStefano, Jasper and Hess spoke in favor and yielded to questions.

Reps. Kennedy spoke in favor.

Rep. Hess requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

### YEAS 192 NAYS 145

#### YEAS 192

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Dewhirst, Glenn	Fitzgerald, James	Holbrook, Robert
Nedeau, Stephen	Pilliod, James	Rice, Thomas	Russell, David
Thomas, John	Wendelboe, Fran	Whalley, Michael	

#### CARROLL

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Merrow, Harry	Mock, Henry
Patten, Betsey	Stevens, Stanley		

#### CHESHIRE

Hunt, John	Laurent, John	Liebl, George	Meador, David
Robertson, Timothy	Royce, H Charles	Smith, Edwin	

#### COOS

Brady, Mark	Mears, Edgar	Pratt, Leighton	Richardson, Herbert
Theberge, Robert	Tholl, John Jr	Woodward, David	

#### GRAFTON

Alger, John	Almy, Susan	Barker, Robert	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ham, Bonnie	Maybeck, Margie	Sorg, Gregory	

#### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Baroody, Benjamin	Barry, J Gail	Batula, Peter
Beaton, William	Brundige, Robert	Bruno, Pierre	Cail, Kenneth
Carter, Jeffrey	Carter, Mark	Chabot, Robert	Christensen, D L Chris
Coughlin, Pamela	Craig, James	Crane, Elenore Casey	Desmarais, Vivian
Dionne, Kimberley	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Gargas, Carolyn	Gonzalez, Carlos
Graham, John	Greenberg, Gary	Hagan, Barbara	Hall, Charles
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Hopper, Gary



Infantine, William  
Luebker, Bernard  
Mooney, Maureen  
Pappas, Marc  
Scanlon, Michael  
Tahir, Saghir

Jasper, Shawn  
McHugh, Claire  
Mosher, William  
Pepino, Leo  
Slocum, Lee  
Tate, Joan

Kurk, Neal  
McRae, Karen  
Movsesian, Lori  
Price, Pamela  
Stepanek, Stephen  
Wheeler, James

LaFlamme, Paul  
Mercer, Robert  
O'Brien, Lori  
Reeves, Sandra  
Sullivan, Francis

### MERRIMACK

Daniels, Eric  
Field, William  
Hamm, Christine  
L'Heureux, Stephen  
McCormick, Tom

DeJoie, John  
Foley, Albert  
Hess, David  
Langer, Ray  
Nutter, Edward

DeStefano, Stephen  
Fraser, Leo Jr  
Jacobson, Alf  
MacKay, James  
Oliver, James

Dunne, Christopher  
French, Barbara  
Kennedy, Richard  
Maxfield, Roy  
Reardon, Tara

### ROCKINGHAM

Allen, Mary  
Cady, Harriet  
Dowd, John  
Flanders, John Sr  
Headd, James  
Johnson, Rogers  
Major, Norman  
Norelli, Terie  
Priestley, Anne  
Smith, Paul  
Weare, E Albert

Belanger, Ronald  
Camm, Kevin  
Doyle, Christopher  
Francoeur, Sheila  
Holland, James Jr  
Katsakiores, George  
Manning, John  
Noyes, Richard  
Rausch, James  
Tufts, J Arthur  
Welch, David

Bicknell, Elbert  
Carson, Sharon  
Dumaine, Dudley  
Gillick, Thomas  
Ingram, Russell  
Kobel, Rudolph  
McKinney, Betsy  
O'Neil, Michael  
Roessner, Kurt  
Varrell, Thomas  
Winchell, George

Bridle, Russell  
Dalrymple, Janeen  
Fesh, Bob  
Griffin, Mary  
Introne, Robert  
Letourneau, Robert  
Morris, Richard  
Packard, Sherman  
Smith, Donald  
Waterhouse, Kevin  
Zolla, William

### STRAFFORD

Albert, Russell  
Harrington, Michael  
Newton, Clifford

Bickford, David  
Hollinger, Jeffrey  
Scott, David

Cataldo, Sam  
Johnson, Nancy  
Taylor, Kathleen

Easson, Timothy  
Knowles, William  
Woods, Phyllis

### SULLIVAN

Cloutier, John  
Jones, Constance

Ferland, Brenda  
Phinizy, James

Harris, Joseph  
Rodeschin, Beverly

Harris, Sandra

### NAYS 145

### BELKNAP

None

### CARROLL

Dickinson, Howard

Olimpio, J Lisbeth

Philbrick, Donald

### CHESHIRE

Allen, Peter  
Fish, Douglas  
Pratt, Irene  
Tilton, Anna

Dunn, James  
Manning, Joseph  
Pratt, John  
Webber, Amy

Eaton, Daniel  
Mitchell, McKim  
Richardson, Barbara

Espiefs, Peter  
Parkhurst, Henry  
Slack, Pamela

### COOS

Guay, Lawrence

King, Frederick

### GRAFTON

Akins, Ralph  
Densmore, Edward  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon  
Williams, Burton

Bleyler, Ruth  
Hammond, Lee  
Scovner, Nancy

Cooney, Mary  
Ingbretson, Paul  
Sokol, Hilda

**HILLSBOROUGH**

Bergeron, Jean-Guy	Bergin, Peter	Brassard, Paul	Buckley, Raymond
Buhlman, David	Christiansen, Lars	Cote, David	Cote, Peter
Dokmo, Cynthia	Gibson, John	Gorman, Mary	Goyette, Peter Jr
Haley, Robert	Hinkle, Peyton	Holden, Randolph	Hunter, Bruce
Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel	Kopka, Angeline
L'Heureux, Robert	Lasky, Bette	Lawrence, James	Leach, Edward
Malloy, Chris	Martin, Mary Ellen	McElroy, Henry Jr	Messier, Irene
Michon, Stephen	Pappas, Christopher	Pilotte, Maurice	Rowe, Robert
Souza, Kathleen	Spiess, Paul	Sullivan, Peter	Sweeney, Cynthia
Vaillancourt, Steve	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Clarke, Claire	Davis, Frank	Gile, Mary	Hager, Elizabeth
Kenison, Leon	Leber, William	Lockwood, Priscilla	Marple, Richard
Osborne, Jessie	Perkins, Randy	Potter, Frances	Rodd, Beth
Rush, Deanna	Seldin, Gloria	Soltani, Tony	

**ROCKINGHAM**

Bishop, Franklin	Blanchard, MaryAnn	Clark, Vivian	Coes, Betsy
Cooney, Richard	DiFruscia, Anthony	Dodge, Robert	Duffy, James
Gilbert, Karl	Gleason, John	Gould, Kenneth	Hamel, Albert
Hughes, Daniel	Johnson, Robert	Langley, Jane	Langone, John
McEachern, Paul	McMahon, Charles	Moore, Benjamin	Pantelakos, Laura
Putnam, Ed II	Quandt, Matthew	Robertson, Carl	Ruffner, Walter
Shultis, Elizabeth	Splaine, James	Stone, Joseph	Vallone, Matthew
Weyler, Kenneth	Wiley, Robert		

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Callaghan, Frank
Campbell, W Packy	Creteau, Irene	Dunlap, Patricia	Grassie, Anne
Heon, Richard	Hofemann, Roland	Keans, Sandra	Miller, Joseph
Pelletier, Arthur	Rollo, Deanna	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Katherine
Twombly, James	Wall, Janet		

**SULLIVAN**

Donovan, Thomas	Franklin, Peter	Leone, Richard
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and the majority committee report was adopted.

Ordered to third reading.

Rep. Poulin declared a conflict of interest and did not participate.

**SPECIAL ORDER FROM MARCH 17, 2004**

**HB 1360-FN**, including "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide. **REFER FOR INTERIM STUDY**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill, if passed, would include an "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter and negligent homicide. This is a very emotional bill and with the time restraints, the committee felt that more time is needed to do justice to this important subject. Vote 11-5.

Reps. Brady and Souza spoke against.

Reps. Giuda and Winchell spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 263 NAYS 69****YEAS 263****BELKNAP**

Allen, Janet  
Holbrook, Robert  
Russell, David

Bartlett, Gordon  
Nedeau, Stephen  
Whalley, Michael

Boyce, Laurie  
Pilliod, James

Fitzgerald, James  
Rice, Thomas

**CARROLL**

Babson, David Jr  
McConkey, Mark  
Stevens, Stanley

Dickinson, Howard  
Merrow, Harry

Hatch, Paul  
Patten, Betsey

Kenney, Bettie  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Meader, David  
Richardson, Barbara  
Smith, Edwin

Dunn, James  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Tilton, Anna

Eaton, Daniel  
Liebl, George  
Parkhurst, Henry  
Royce, H Charles  
Webber, Amy

Espiefs, Peter  
Manning, Joseph  
Pratt, Irene  
Slack, Pamela

**COOS**

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard  
Woodward, David

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Gionet, Edmond  
Ingbretson, Paul  
Sokol, Hilda

Alger, John  
Bleyler, Ruth  
Dudley, Terri  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Cooney, Mary  
Eaton, Stephanie  
Ham, Bonnie  
Nordgren, Sharon  
Williams, Burton

Barker, Robert  
Densmore, Edward  
Gilman, G Michael  
Hammond, Lee  
Scovner, Nancy

**HILLSBOROUGH**

Allan, Nelson  
Batula, Peter  
Bruno, Pierre  
Chabot, Robert  
Cote, Peter  
Desmarais, Vivian  
Elliott, Larry  
Gargas, Carolyn  
Greenberg, Gary  
Infantine, William  
Johnson, Lionel  
Lasky, Bette  
Martin, Mary Ellen  
Messier, Irene  
O'Brien, Lori  
Scanlon, Michael  
Sweeney, Cynthia

Arnold, Thomas Jr  
Beaton, William  
Buckley, Raymond  
Christensen, D L Chris  
Coughlin, Pamela  
Dionne, Kimberley  
Emerton, Larry  
Gonzalez, Carlos  
Hall, Charles  
Irwin, Anne-Marie  
Kopka, Angeline  
Lawrence, James  
McHugh, Claire  
Michon, Stephen  
Pappas, Christopher  
Spiess, Paul  
Tahir, Saghir

Baroody, Benjamin  
Bergin, Peter  
Cail, Kenneth  
Christiansen, Lars  
Craig, James  
Dokmo, Cynthia  
Fields, Dennis  
Gorman, Mary  
Holden, Randolph  
Jasper, Shawn  
Kurk, Neal  
Leach, Edward  
McRae, Karen  
Mosher, William  
Reeves, Sandra  
Sullivan, Francis  
Vaillancourt, Steve

Barry, J Gail  
Brundige, Robert  
Carter, Mark  
Cote, David  
Crane, Elenore Casey  
Drisko, Richard  
Fletcher, Richard  
Graham, John  
Hunter, Bruce  
Jean, Claudette  
L'Heureux, Robert  
Malloy, Chris  
Mercer, Robert  
Movsesian, Lori  
Rowe, Robert  
Sullivan, Peter  
Wheeler, Robert

**MERRIMACK**

Blanchard, Elizabeth  
Daniels, Eric  
Dunne, Christopher  
Hamm, Christine  
Kennedy, Richard

Bouchard, Candace  
Davis, Frank  
Fraser, Leo Jr  
Hess, David  
Langer, Ray

Brueggemann, Donald  
DeJolie, John  
Gile, Mary  
Jacobson, Alf  
Leber, William

Clarke, Claire  
DeStefano, Stephen  
Hager, Elizabeth  
Kenison, Leon  
Lockwood, Priscilla

MacKay, James  
Oliver, James  
Reardon, Tara

Marple, Richard  
Osborne, Jessie  
Rodd, Beth

Maxfield, Roy  
Perkins, Randy  
Rush, Deanna

McCormick, Tom  
Potter, Frances  
Seldin, Gloria

## ROCKINGHAM

Belanger, Ronald  
Bridle, Russell  
Coes, Betsy  
Dowd, John  
Francoeur, Sheila  
Griffin, Mary  
Introne, Robert  
Kobel, Rudolph  
Major, Norman  
McMahon, Charles  
O'Neil, Michael  
Rausch, James  
Smith, Donald  
Vallone, Matthew  
Weyler, Kenneth

Bicknell, Elbert  
Camm, Kevin  
Cooney, Richard  
Doyle, Christopher  
Gilbert, Karl  
Headd, James  
Johnson, Robert  
Langley, Jane  
Manning, John  
Morris, Richard  
Packard, Sherman  
Robertson, Carl  
Splaine, James  
Varrell, Thomas  
Wiley, Robert

Bishop, Franklin  
Carson, Sharon  
Dalrymple, Janeen  
Fesh, Bob  
Gleason, John  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
McEachern, Paul  
Norelli, Terie  
Pantelakos, Laura  
Roessner, Kurt  
Stone, Joseph  
Weare, E Albert  
Winchell, George

Blanchard, MaryAnn  
Clark, Vivian  
Dodge, Robert  
Flanders, John Sr  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, George  
Letourneau, Robert  
McKinney, Betsy  
Noyes, Richard  
Priestley, Anne  
Shultz, Elizabeth  
Tufts, J Arthur  
Welch, David  
Zolla, William

## STRAFFORD

Bemis, Alan  
Creteau, Irene  
Heon, Richard  
Miller, Joseph  
Rous, Emma  
Snyder, Clair  
Twombly, James

Brown, Julie  
Dunlap, Patricia  
Johnson, Nancy  
Newton, Clifford  
Schmidt, Peter  
Spang, Judith  
Wall, Janet

Callaghan, Frank  
Grassie, Anne  
Keans, Sandra  
Pelletier, Arthur  
Scott, David  
Taylor, Katherine

Cataldo, Sam  
Harrington, Michael  
Knowles, William  
Rollo, Deanna  
Smith, Marjorie  
Taylor, Kathleen

Cloutier, John  
Harris, Sandra  
Rodeschin, Beverly

Ferland, Brenda  
Jones, Constance

Franklin, Peter  
Leone, Richard

Harris, Joseph  
Phinizy, James

## SULLIVAN

## NAYS 69

## BELKNAP

Ahern, Omer Jr

Clark, Charles

Dewhirst, Glenn

Wendelboe, Fran

## CARROLL

Brown, Carolyn

Derby, Mark

Mock, Henry

Olimpio, J Lisbeth

## CHESHIRE

Laurent, John

## COOS

Brady, Mark

Guay, Lawrence

Richardson, Herbert

## GRAFTON

Maybeck, Margie

Sorg, Gregory

## HILLSBOROUGH

Adams, Jarvis  
Brassard, Paul  
Goyette, Peter Jr  
Harrington, Paul  
LaFlamme, Paul  
Pappas, Marc  
Slocum, Lee

Artz, Lawrence  
Buhlman, David  
Hagan, Barbara  
Hawkins, Ken  
Luebker, Bernard  
Pepino, Leo  
Souza, Kathleen

Balboni, Michael  
Carter, Jeffrey  
Haley, Robert  
Hinkle, Peyton  
McElroy, Henry Jr  
Pilotte, Maurice  
Tate, Joan

Bergeron, Jean-Guy  
Gibson, John  
Hansen, Ryan  
Hopper, Gary  
Mooney, Maureen  
Price, Pamela  
Wheeler, James

**MERRIMACK**

Anderson, Eric  
Nutter, Edward

Field, William  
Soltani, Tony

Foley, Albert

L'Heureux, Stephen

**ROCKINGHAM**

Allen, Mary  
Dumaine, Dudley  
Putnam, Ed II  
Waterhouse, Kevin

Cady, Harriet  
Gillick, Thomas  
Quandt, Matthew

DiFruscia, Anthony  
Hamel, Albert  
Ruffner, Walter

Duffy, James  
Hughes, Daniel  
Smith, Paul

**STRAFFORD**

Albert, Russell  
Hofemann, Roland

Berube, Roger  
Hollinger, Jeffrey

Campbell, W Packy  
Woods, Phyllis

Easson, Timothy

**SULLIVAN**

Donovan, Thomas

and the committee report was adopted.

**BILLS REMOVED FROM CONSENT CALENDAR OF MARCH 17, 2004****HB 1425**, relative to food safety in restaurants. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill will require one food employee in each food service establishment to be certified in food preparation management. As requirements for food safety become more complex and are ever changing, it is important that there be a contact person for each license in the state who will help ensure each establishment is in compliance. The amendment clarifies the definition of potentially hazardous foods, added a requirement that the designated employee have supervisory authority over the establishment and gives specific guidelines for what happens when the employee leaves the establishment. Vote 14-3.

**Amendment (0755h)**

Amend the bill by replacing all after section 1 with the following:

2 Food Service Licensure; Certified Food Protection Manager Defined. Amend RSA 143-A:3, I to read as follows:

**I. "Certified food protection manager" means a person who meets the requirements of RSA 143-A:9-c.**

**I-a. "Commissioner" means the commissioner of the department of health and human services.**

3 New Paragraph; Definition Added. Amend RSA 143-A:3 by inserting after paragraph VI the following new paragraph:

VI-a. "Potentially hazardous food" means:

(a) A food which is natural or synthetic and is in a form capable of supporting the:

- (1) Rapid and progressive growth of infectious or toxigenic microorganisms; or
- (2) Growth and toxin production of *Clostridium botulinum*; or
- (3) In raw shell eggs, the growth of *Salmonella enteritidis*; and

(b) Which is further defined by the U.S. Public Food Service Food Code adopted by the federal Food and Drug Administration.

4 New Subdivision; Food Service Licensure; Requirement of Certain Establishments to Have a Certified Food Protection Manager. Amend RSA 143-A by inserting after section 9-a the following new subdivision:

Certified Food Protection Managers

143-A:9-b Certified Food Protection Manager Requirement.

I. Except as provided in paragraph III, each food service establishment licensed under RSA 143-A serving a potentially hazardous food shall assign at least one food employee to be a certified food protection manager.

II. No person shall use the title "certified food protection manager" or in any way present himself or herself as a certified food protection manager unless he or she holds a current certificate from a certification program which meets the Conference for Food Protection standards for training, testing, and certification.

III. The following establishments shall not be required to assign a person who is a certified food protection manager:

(a) Food service establishments that serve only commercially pre-packaged foods and beverages, commercially pre-cooked potentially hazardous foods that are dispensed in a manner that minimizes contamination of the food, or commercially prepared cold foods not requiring any further preparation and dispensed or packaged immediately to the consumer in a manner that minimizes contamination of the food.

(b) Home food manufacturers and bed and breakfast establishments.

IV. The commissioner may by rule pursuant to RSA 541-A, establish an exemption for other small food service establishments.

143-A:9-c Certified Food Protection Managers. Each certified food protection manager shall:

I. Be at least 18 years of age.

II. Take and pass a food protection manager certification program that meets the standards of the Conference for Food Protection.

III. Be recertified at least every 5 years.

IV. Be assigned to no more than 2 licensed establishments.

V. Have supervisory and training responsibilities of the food services establishment.

VI. Be responsible for food preparation and service with authority and responsibility to direct and control such responsibilities.

VII. Be responsible for operating the food service establishment in compliance with this subdivision.

143-A:9-d Termination of Food Protection Manager; New or Changed Ownership.

I. Upon termination of the employment of a certified food protection manager, the food service establishment where the manager was employed shall have 60 days to:

(a) Employ a new certified food protection manager in accordance with RSA 143-A:9-c; or

(b) Have an employee enrolled in the next scheduled approved food protection manager certification program.

II. Establishments that are new or have changed ownership shall meet the requirements of this section within 90 days of initial operation.

143-A:9-e Display of Certificate. Food protection manager certification program certificates shall be:

I. Prominently posted in the establishment next to the food service license to operate; and

II. Removed when the certified food protection manager identified in the certificate is no longer employed by the establishment.

143-A:9-f Expired Certification. An individual with a certificate which has been expired for more than 6 months shall complete an approved food safety course in accordance with RSA 143-A:9-c.

5 Applicability. Notwithstanding RSA 143-A:9-b, no food service establishment licensed under RSA 143-A which serves potentially hazardous food shall be required to assign a person who is a certified food protection manager until July 1, 2005.

6 Effective Date. This act shall take effect July 1, 2004.

### LAID ON THE TABLE

Rep. O'Neil moved that **HB 1425**, relative to food safety in restaurants, be laid on the table.

Adopted.

### BILLS REMOVED FROM CONSENT CALENDAR OF MARCH 17, 2004 (CONT'D.)

#### **HR 24**, opposing the exploration for oil in the Arctic National Wildlife Refuge. **OUGHT TO PASS WITH AMENDMENT**

Rep. Timothy E. Easson for State-Federal Relations and Veterans Affairs: The committee believes that a comprehensive national energy plan is in the best interest of the people of New Hampshire and the United States. The resolution as amended calls for greater energy independence, the promotion of cleaner and alternate technologies, modernization of our electricity system, incentives for the utilization of renewable energy sources, and the promotion of conservation. The committee amendment removes any reference to drilling in the Arctic National Wildlife Refuge. Vote 12-0.

#### **Amendment (0739h)**

Amend the resolution by replacing the title of the resolution with the following:

A RESOLUTION encouraging a comprehensive energy plan.

Amend the resolution by replacing all after the title with the following:

Whereas, a comprehensive plan for energy independence is a vital component of the United States' national security strategy; and

Whereas, it is prudent for both national security and environmental concerns to promote energy independence for our country, and promote efficiency and conservation to develop cleaner technologies; now, therefore, be it

Resolved by the House of Representatives:

That the New Hampshire house of representatives urges the President of the United States and the Congress of the United States to develop and work to implement a comprehensive plan to promote these states' goals; and

That this plan should include a plan to modernize our electricity system, promote conservation, and improve the United States' air quality; and

That this plan should promote economic incentives for the utilization of renewable energy sources; and

That this plan should promote increased energy production at home so the United States is less dependent on foreign oil; and

That this plan should promote the development of alternative energy technologies, such as hybrid, hydrogen, electric or natural gas powered vehicles; and

That copies of this resolution be forwarded by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the United States Secretary of Energy and the New Hampshire congressional delegation.

#### AMENDED ANALYSIS

This house resolution encourages the President of the United States and the Congress to adopt a comprehensive energy program.

Adopted.

Rep. Harrington spoke against.

Rep. Easson spoke in favor.

Report adopted and ordered to third reading.

#### RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, April 8, 2004 at 10:00 a.m.

Adopted.

#### LATE SESSION

##### Third reading and final passage

**HB 1221**, urging the oversight committee on telecommunications to study aspects of federal universal service funding.

**HB 1416-FN**, extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.

**HR 24**, encouraging a comprehensive energy plan.

#### PERSONAL PRIVILEGE

Rep. Hunt addressed the House.

#### UNANIMOUS CONSENT

Rep. Welch addressed the House.

#### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of introduction of bills, enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 1:15 p.m.

RECESS

**(Rep. Dodge in the Chair)****ENROLLED BILL AMENDMENTS**

**HB 65**, relative to educational assistance for national guard members.

**Amendment (0847-EBA)**

Amend section 2 of the bill by replacing lines 1-2 with the following:

2 Repeal of Prospective Repeal Date of National Guard Education Assistance Act. 1996, 237:7, I as amended by 1998, 65:2 and 1999, 211:1, relative to the repeal date of RSA 110-B:63-a – 110-B:63-f, Adopted.

**HB 258**, relative to the regional community-technical college system and relative to the bonding of a Cannon Mountain capital appropriation

**Amendment (0867-EBA)**

Amend 2003, 319:178, II-a as inserted by section 2 of the bill by replacing line 1 with the following:

II-a. Faculty positions, teachers, teacher assistants, teacher aides, and counselors within

Amend section 4 of the bill by replacing line 1 with the following:

4 Capital Budget; 2001; Cannon Mountain; Park Fund. Amend 2001, 202:1, XI, as extended by 2003, 240:34, LXXI and LXXII, to read as Adopted.

**HB 620-FN**, providing various protections for parents in cases involving the guardianship of minors

**Amendment (0879 EBA)**

Amend RSA 463:6, II as inserted by section 2 of the bill by replacing line 1 with the following:

II. The orders of notice required by paragraph I shall further specify:

Amend RSA 463:8, VII (b) (2) as inserted by section 5 of the bill by replacing line 2 with the following:

conduct a hearing pursuant to this section as if the parent were objecting under paragraph III and Adopted.

**SENATE MESSAGES****CONCURRENCE**

**HB 1259**, relative to the medical certification required for a walking disability plate or placard.

**HB 1292**, apportioning state representative districts.

**CONCURRENCE WITH AMENDMENT**

**SB 493**, relative to examination standards for certified public accountants.

**RESOLUTION**

Rep. Chandler offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, Senate Bills numbered 126, 302, 303, 311, 343, 357, 376, 389, 407, 411, 421, 427, 433, 441, 448, 449, 450, 451, 461, 465, 481, 484, 489, 492, 495, 526, 532, 533, 534 and Senate Concurrent Resolution 5 shall be by this resolution read a first and second time by the therein listed titles, and referred to the therein designated committees.

Adopted.

**INTRODUCTION OF SENATE BILLS AND SCR****First, second reading and referral**

**SB 126-FN-A**, exempting transfers of title between spouses from the real estate transfer tax. (Ways and Means)

**SB 302-FN-L**, making technical corrections to the education funding formula. (Finance)

**SB 303-FN**, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. (Ways and Means)

**SB 311**, relative to civil penalties for unlawful campaign practices. (Election Law)

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. (Resources, Recreation and Development)



- SB 357**, authorizing municipalities to adopt quarterly billing of taxes. (Municipal and County Government)
- SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. (Finance)
- SB 389**, relative to certain insurance contracts. (Commerce)
- SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting. (Municipal and County Government)
- SB 411-FN-L**, relative to liability for special education transportation costs. (Finance)
- SB 421**, relative to charter schools. (Education)
- SB 427**, relative to the definition of marriage. (Judiciary)
- SB 433-FN**, establishing a committee to study utility rate review by the public utilities commission. (Science, Technology and Energy)
- SB 441**, relative to the operation of dental clinics by health care charitable trusts. (Commerce)
- SB 448-FN**, relative to consumer guaranty contracts. (Commerce)
- SB 449**, relative to fluoridation of municipally-owned public water systems. (Municipal and County Government)
- SB 450-FN**, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs. (Ways and Means)
- SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing. (Education)
- SB 461**, relative to the regulation of gift certificates under the consumer protection act. (Commerce)
- SB 465**, relative to testimony of witnesses about confidential settlements. (Judiciary)
- SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay. (Environment and Agriculture)
- SB 484**, establishing the Collaborative Practice for Emergency Contraception Act. (Executive Departments and Administration)
- SB 489**, relative to requests for special elections. (Election Law)
- SB 492**, relative to registration requirements for home inspectors. (Executive Departments and Administration)
- SB 495-FN**, relative to original and youth operators' licenses. (Transportation)
- SB 526**, relative to sexual harassment complaint procedures for public employees. (Legislative Administration)
- SB 532-FN**, exempting biodiesel from the road toll. (Public Works and Highways)
- SB 533**, relative to licensing requirements for certain recreation and child care programs. (Municipal and County Government)
- SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies. (Executive Departments and Administration)
- SCR 5**, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. (State-Federal Relations and Veterans Affairs)

## RECESS

(Rep. Nelson Allan in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 72, 121, 459, 749, 1141, 1154, 1160, 1248, 1260, 1325, 1403 and Senate Bill numbered 519.

Rep. Currier, Sen. D'Allesandro for the Committee

## RECESS

(Rep. Hunt in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 65, 258, 620, 1292, and Senate Bills numbered 472, 479, and 493.

Rep. Currier, Sen. D'Allesandro for the Committee

## RECESS

**(Rep. Price in the Chair)**

**ENROLLED BILL AMENDMENTS**

**HB 1259**, relative to the medical certification required for a walking disability plate or placard.

**Amendment (0900-EBA)**

Amend RSA 261:88, III as inserted by section 1 by replacing line 3 with the following:  
must be submitted every 5 years except in the case of a veteran who has been evaluated by the  
Amend RSA 261:88, V as inserted by section 1 by replacing line 16 with the following:  
placard shall expire 5 years from the date of issuance, and the expiration date shall be noted on the  
Adopted.

**HB 464-FN**, establishing a criminal penalty for facilitating a drug or underage alcohol house party.

**Amendment (0866-EBA)**

Amend section 1 of the bill by replacing line 2 with the following:  
inserting after section 17-a the following new section:  
Amend the bill by replacing section 2 with the following:  
2 Effective Date. This act shall take effect January 1, 200  
Adopted.

RECESS

**(Speaker Chandler in the Chair)**

**COMMITTEE ASSIGNMENTS**

Rep. Densmore off Legislation Administration.  
Rep. Dowd on Municipal and County Government.  
Rep. Rodd on Criminal Justice and Public Safety.  
Rep. Drisko on Executive Departments and Administration.

RECESS

**(Rep. Haytayan in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 464 and 1259.

Rep. Currier, Sen. D'Allesandro for the Committee

RECESS

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.  
Adopted.

**HOUSE JOURNAL No. 10**

Thursday, April 8, 2004

**(Speaker Chandler in the Chair)**

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Lacking a quorum, Rep. Hess moved that the House adjourn.

Adopted.

The House adjourned at 10:05 a.m. to the Call of the Chair.

**HOUSE JOURNAL No. 11**

Thursday, April 15, 2004

The House was called to order at 10:00 a.m. by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

There are many brave men and women today, O God, who are risking all for the defense of this nation, and many who have paid in full with their lives on distant battlefields. We pay tribute to these men and women today on the anniversary of the death of one of our greatest leaders who understood better than most the cost and necessity of freedom. Bless the work and decisions of this honorable House, and may all that is done here today be worthy of the sacrifice of those, living and dead, who have given so much to freedom's cause.

Bless also the citizens of our beloved New Hampshire and inspire us to create lively communities of fairness, compassion and hope for all. Amen.

Reps. Douglas Fish and Daniel Eaton led the Pledge of Allegiance.

The National Anthem was sung by Laura Cole, a senior from Salem High School.

**LEAVES OF ABSENCE**

Reps. Flanagan, Joseph Harris, Sandra Harris, Lefebvre, McDonough-Wallace and Moore, the day, illness.

Reps. Timothy Allen, Bicknell, Desmarais, Francoeur, Hollinger, Martin, Slack, Spang, Katherine Taylor and Williams, the day, important business.

Rep. Julie Brown, the day, illness in the family.

Rep. Campbell, the day, death in the family.

**INTRODUCTION OF GUESTS**

Marrissah Gallien, granddaughter of Rep. Letourneau, Page for the Day. Anne-Marie Letourneau and Diane Gallien, wife and daughter of Rep. Letourneau. Monica Wiley, daughter of Rep. Wiley. Bill Burns, guest of Rep. Solomon. Ellen Bosch, guest of the Salem delegation. Paul Montana, guest of Rep. Roessner. Steven Spratt, guest of Rep. Irwin. Casey and John Grant, father and grandfather of House Information Officer Danielle Grant, guests of the Speaker. Hon. Bernard Raynowska, guest of Rep. Holland.

**INTRODUCTION OF SPECIAL GUESTS**

The Merrimack High School Boys Basketball Team, the 2004 Class L State Champions, Coach Tim Goodridge and Principal Kenneth Johnson, guests of the House.

**COMMUNICATION**

March 24, 2004

Karen Wadsworth, Clerk of the House

Please be advised that the following representative-elect was sworn into office by the Governor and Council on this day:

Rockingham County District 82, Dennis F. Abbott, d, Newmarket (199 Ash Swamp Rd.) 03857

William M. Gardner, Secretary of State

**TARTAN DAY RECOGNITION PROGRAM**

Rep. John Hunt introduced special guests who performed for the House in honor of New Hampshire Tartan Day. Pipe Major Gordon Webster accompanied by Chris Andrews and Elliott Smith played the bagpipes as Marielle Webster, Campbell Webster, Ashley Gilmour, Bonnie Helper, Shona MacWhirter, Victoria Lemming and Isabel Leeming danced the Highland Fling.

Pipe Major Gordon Webster piped "Flowers of the Forest" and "Amazing Grace" in memory of Reps. Maurice E. Goulet and Robert H. Milligan.

**ENROLLED BILLAMENDMENTS**

**HB 503**, relative to septic system construction permits.

**Amendment (1113-EBA)**

Amend section 2 of the bill by replacing line 3 with the following:

485-A:5-b Municipal Responsibility.

Adopted.

**HB 812**, relative to state acquisition of privately-owned airports.

**Amendment (1174-EBA)**

Amend section 1 of the bill by replacing line 4 with the following:

by an owner after July 2, 1989, shall be offered for sale to the state of New Hampshire in the first Amend RSA 422:19, III as inserted by section 1 of the bill by replacing line 2 with the following: authority in the amount of \$5,000,000 for purchase of airports or option to purchase in accordance with

Adopted.

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 1130, 1261, 1275, 1334, 1397, 1416 and 1426.

Rep. Currier, Sen. D'Allesandro for the Committee

**MOTION TO VACATE**

Rep. Welch moved that the House vacate the reference of **SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem, to the committee on Criminal Justice and Public Safety.

Motion adopted.

The Speaker referred **SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem, to the committee on Children and Family Law.

**COMMITTEE REPORTS****CONSENT CALENDAR**

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**SB 439**, relative to probationary drivers' licenses, removed by Rep. Welch.

**SB 418**, relative to voting procedures in the Hanover school district, removed by Rep. Stephen L'Heureux.

**SB 409-FN**, revising the vocational school licensing statutes, removed by Rep. O'Neil.

**SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities, removed by Rep. Patten.

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways, removed Rep. Rush.

Consent Calendar adopted.

**SB 416**, relative to membership of the advisory committee on child care. **OUGHT TO PASS**

Rep. Mary Stuart Gile for Children and Family Law: This bill amends RSA 126-A:17 to change the membership of the NH Child Care Advisory Council (NHCCAC) to reflect the new status of two previous membership associations, namely, the NH Child Care Association and the NH Family Child Care Association. In 2003, both associations merged with two other organizations, the Business Partnership and Invest in Kids to form Early Learning, NH. This is a housekeeping bill to ensure continued representation from direct care and service providers. This bill enables Early Learning, NH to appoint two representatives to the NHCCAC and specifies that one must be from center based child care and the second from the family child care community. Vote 12-0.

**SB 207**, relative to transactions exempt from the consumer protection act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The intent of this legislation as amended is to clarify that Retail Installment Contracts for the sale of motor vehicles, RSA 361-A, are included in the New Hampshire Banking Department exemptions under the Consumer Protection Act. To be clear, the intent of the legislature is to only exempt from the Consumer Protection Act automobile dealer

transactions regarding retail installment contracts. Any unfair or deceptive trade practice conducted by this industry outside of the scope of RSA 361-A is still exclusively under the jurisdiction of the State Consumer Protection Act at RSA 358-A. This bill also requires the Banking Commissioner to designate specific personnel to respond to consumer complaints. This legislation also requires the Banking Commission to request the assistance of the Consumer Protection and Antitrust Bureau when appropriate. This legislation also makes illegal "spot" deliveries. A spot delivery occurs when a consumer trades in a motor vehicle and receives delivery of the new vehicle before the retail installment sales contract has been assigned. Under this bill, the car dealer may not dispose of the consumer's trade-in until the loan is finalized. The committee received a lot of testimony on these issues. The attorney general's position throughout the hearing process was that transactions subject to RSA 361-A should not be exempt from the Consumer Protection Act. The deputy attorney general testified that the attorney general's office currently process complaints against car dealers regarding retail installment sales and does so efficiently and effectively, and there is no need to transfer jurisdiction. However, the legislature wishes to continue with its goal that regulated industries should only be regulated by one entity, and with respect to retail installment contracts, the banking department should have jurisdiction. The committee will not hesitate to revisit this issue in the event that the banking department does not effectively handle consumer complaints relating to violations of RSA 361-A. Vote 13-0.

#### Amendment (0907h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to exemptions from the consumer protection act and the regulation of retail installment sales of motor vehicles.

Amend the bill by replacing all after the enacting clause with the following:

1 Consumer Protection; Exempt Transactions; Retail Installment Sales. Amend RSA 358-A:3, I to read as follows:

I. Trade or commerce that is subject to the jurisdiction of the bank commissioner, the director of securities regulation, the insurance commissioner, the public utilities commission, the financial institutions and insurance regulators of other states, or federal banking or securities regulators who possess the authority to regulate unfair or deceptive trade practices. ***This paragraph includes trade or commerce under the jurisdiction of, and regulated by, the bank commissioner pursuant to RSA 361-A, relative to retail installment sales of motor vehicles.***

2 New Paragraph; Retail Installment Sales; Powers of the Bank Commissioner. Amend RSA 361-A:5 by inserting after paragraph VI the following new paragraph:

VII. The commissioner shall have the authority to investigate conduct that is or may be in violation of this chapter, may hold hearings relative to such conduct, and may order restitution for a person adversely affected by such conduct.

3 Retail Installment Sales; Enforcement; Cooperation with and Referral to the Attorney General. Amend RSA 361-A:6 to read as follows:

361-A:6 ~~[Assistants]~~ ***Enforcement; Cooperation With and Referral to the Consumer Protection and Antitrust Bureau of the Department of Justice.***

I. For the enforcement of the provisions of this chapter, the commissioner ~~[is authorized to]~~ ***shall appoint and designate***, subject to the provisions of the personnel law, ~~[such] personnel [as are necessary] to respond to consumer complaints and enforce this chapter. Such personnel shall request the assistance and services of the consumer protection and antitrust bureau of the department of justice when appropriate.~~ The salary, traveling expenses, and all expenses of administration and enforcement of the provisions of this chapter shall be paid out of fees received from licenses issued under this chapter, and funds collected pursuant to RSA 383:11.

***II. Any unfair or deceptive trade practice that is not addressed under the provisions of this chapter shall be referred to the consumer protection and antitrust bureau for enforcement under the provisions of RSA 358-A.***

4 New Section; Retail Installment Sales; Spot Delivery. Amend RSA 361-A by inserting after section 10-a the following new section:

361-A:10-b Sale Contingent on Financing Approval. Any retail seller who delivers a motor vehicle to a retail customer before the retail seller has obtained financing approval from a sales finance company shall provide a disclosure, containing the following language in a size equal to at least 10 point bold type, which must be signed by the retail buyer:

"The retail seller of the motor vehicle has not obtained financial approval for the terms contained in the retail installment contract from a sales finance company. If the retail seller obtains financial approval from a sales finance company under the terms of the retail installment contract, the sale shall be final and binding on the retail seller and the retail customer. If final approval of the terms of the retail installment contract cannot be obtained from a sales finance company, the retail installment contract shall be canceled. The retail seller shall return to the buyer any consideration received in the transaction, including, but not limited to, any motor vehicle traded in, any deposit, and any fees paid by the buyer. The buyer shall, upon being notified that the retail seller was unable to obtain financing approval, return the motor vehicle to the retail seller."

5 Effective Date. This act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill provides that retail installment sales of motor vehicles are exempt from the consumer protection act when such trade or commerce is regulated by the bank commissioner pursuant to RSA 361-A. The bill also requires motor vehicle sellers that offer retail installment contracts contingent on financing approval to notify buyers of their right to cancel, and to a complete refund, if the anticipated financing terms are not obtained.

#### **SB 345, exempting payroll accounts from trustee process. OUGHT TO PASS**

Rep. Paul D. Spiess for Commerce: Under present law, if a business files bankruptcy, the court through its trustee can attach all of the assets of the organization, including the employee payroll account. Any funds in these accounts can then be used to satisfy the claims of creditors. This bill exempts funds in payroll accounts from the reach of the trustee. The court can require an audit of the account to assure that the funds in the account were legitimately accrued and not fraudulently conveyed. Vote 14-0.

#### **SB 400, relative to real estate appraisals conducted for mortgage loan applicants. INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: One of the co-sponsors acknowledged that this proposed legislation was introduced at the behest of a constituent. Apparently, what had occurred was that the constituent had applied for a mortgage and as is the mortgagee's routine, an appraisal of the property had been requested. The appraiser requested of the borrower the fee for the work before it was done. Subsequently, when the borrower requested a copy of the appraisal, that request was denied. The theory being that although the borrower underwrote the cost of the appraisal, the appraisal itself was a work product of the mortgagee. After reviewing the current law, the committee felt the law does not need to be changed. The proposed legislation would not have addressed the constituent's concern. Vote 13-0.

#### **SB 428, establishing a committee to study the protection of consumers from unfair lending practices. INEXPEDIENT TO LEGISLATE**

Rep. Matthew J. Quandt for Commerce: The purpose of this bill is to study "predatory" lending practices in New Hampshire. The bill is in response to legislation that was passed last year regulating "payday loans" and "title loans". The State of New Hampshire does not have a "usury law" and does not regulate or cap interest rates. While we recognize that high risk/high rate lending has the potential for abuse, the new regulatory scheme just went into effect in July of 2003 and it is premature to study this issue until our banking department has time to accumulate data and investigate complaints. The banking department reports that in the last 36 months eight complaints have been filed against small loan lenders including: 1 co-sign issue, 2 debit collection practices, 1 high interest rate, 2 repossessions of a car, 1 treatment of confidential information and 1 loan payoff. Vote 12-1.

#### **SB 325-FN-L, relative to penalties for a false report to a law enforcement officer. INEXPEDIENT TO LEGISLATE**

Rep. E. Albert Weare for Criminal Justice and Public Safety: Presently making a false report to a law enforcement officer is a misdemeanor crime. This bill would make it a class "B" felony. The sponsor's intent was to make this crime to be commensurate to the crime falsely reported. However, this would create conflict with other sections of the criminal code. Vote 15-0.

**SB 339-FN**, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses. **INEXPEDIENT TO LEGISLATE**

Rep. William V. Knowles for Criminal Justice and Public Safety: The intent of this bill was to simplify involuntary admission standards for persons not competent to stand trial who have mental retardation. The current statute 171-B:4, Petition, III states a certificate from a physician, psychiatrist or psychologist who shall have experience and training in mental retardation, who has examined the person, and reviewed the condition or behavior of the person sought to be admitted within 10 days of the date the petition is filed and who agrees that, based on this examination, such person satisfies RSA 171-B:2, IV and V (the person has mental retardation and poses a potentially serious likelihood of danger to others). The aforementioned section of the statute was removed by the bill, thus eliminating the need for an exam by a qualified technician. The committee felt that the current statute serves us well and takes into consideration the rights of the accused, as well as the rights of the victim and general public. Vote 16-0.

**SB 347-FN**, relative to financial responsibility and conduct after an OHRV accident. **OUGHT TO PASS**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: This bill updates New Hampshire law as to conduct after an accident of OHRV's upon a public way. With the passage and signing of this bill, all operators of OHRV's must conform to the same responsibility required of the operator of a motor vehicle, to stop, give his name, address, registration, and to report the accident to the nearest police officers. To be succinct, all provisions of New Hampshire's Financial Responsibility Law now apply to OHRV's. This follows another bill, SB 424, in which the committee brought up to date the penalties, reporting requirements, and other pertinent regulations as to a vessel (boat) upon the waterways of the state. Vote 11-0.

**SB 360**, requiring written notification concerning certain offenders against children. **INEXPEDIENT TO LEGISLATE**

Rep. Laura C. Pantelakos for Criminal Justice and Public Safety: This bill would require written notification to neighbors when an offender against children moves to their neighborhood. Although the committee was sympathetic to the parents' concerns, it felt this bill was unnecessary. Municipalities currently have this ability and everyone has access to the sex offender registry on line. Vote 14-1.

**SB 364**, increasing the penalties for littering. **INEXPEDIENT TO LEGISLATE**

Rep. Stephen H. Nedeau for Criminal Justice and Public Safety: This bill, increasing the penalties for littering, does show good faith. However the fact is that we have laws in place that are not fully enforced by law enforcement and the court system. We need not try to restructure this any more. Testimony that there was a total of only 24 violations statewide last year proves the state isn't serious about litter. Vote 15-0.

**SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older. **OUGHT TO PASS WITH AMENDMENT**

Rep. William V. Knowles for Criminal Justice and Public Safety: This bill straightens out an error discovered following a reprint of a committee of conference report in the last session. RSA 628:1 was changed last session to allow the superior court to hold a hearing to determine whether a person charged with a serious crime as outlined in 628:1, II, after his or her 17th birthday, for an offense allegedly committed when such person was 13 years of age, but less than 15 years of age, to determine, based on the preponderance of the evidence, whether the defendant may be held criminally responsible. If a person is charged prior to his or her 17th birthday for a crime outlined in 628:1 II as previously mentioned, the hearing is held in juvenile court to determine if he or she should be certified to be tried in superior court. Once a person reaches 17, they are considered an adult and the juvenile court loses jurisdiction. RSA 169-B 24 V, is being repealed as was intended last year, because it conflicts with RSA 628:1, II and made it moot. Vote 16-0.

#### **Amendment (1062h)**

Amend the bill by replacing all after the enacting clause with the following:

I Criminal Responsibility; Immaturity. Amend the introductory paragraph of RSA 628:1, II to read as follows:

II. *Except as provided in paragraph III*, a person 13 years of age or older may be held criminally responsible for the following offenses if the person's case is transferred to the superior court under the provisions of RSA 169-B:24:



2 Criminal Responsibility; Immaturity. RSA 628:1, III is repealed and reenacted to read as follows:

III. If a person is charged after his or her 17th birthday for an offense set forth in paragraph II which is alleged to have been committed when such person was 13 years of age but less than 15 years of age, and the statute of limitations has not expired, and no juvenile petition based on the acts constituting the offense has been filed, the provisions of RSA 169-B:24 shall not apply. In such cases, the superior court shall hold a hearing prior to trial to determine, based on a preponderance of the evidence, whether the defendant may be held criminally responsible. In making such determination, the court shall consider, but shall not be limited to, the following criteria:

- (a) The seriousness of the alleged offense to the community;
- (b) The aggressive, violent, premeditated, or willful nature of the alleged offense;
- (c) Whether the alleged offense was committed against persons or property;
- (d) The prosecutorial merit of the charge;
- (e) The sophistication and maturity of the defendant at the time of the alleged offense; and
- (f) The defendant's prior record and prior contacts with law enforcement as of the date of the hearing.

3 Repeal. RSA 169-B:24, V, relative to criminal offenses committed by an individual before the age of 17 which are not charged until after the individual has reached the age of 17, is repealed.

4 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill sets forth circumstances under which a person charged after his or her 17<sup>th</sup> birthday for an offense committed between the ages of 13 and 15 may be held criminally liable.

#### **SB 424-FN, relative to boating and carnival-amusement regulation by the department of safety. OUGHT TO PASS**

Rep. E. Albert Weare for Criminal Justice and Public Safety: This bill modifies requirements for reporting boating accidents and requires the operator of a vessel involved in an accident to render any assistance to the victims of any accident they are capable of rendering and to report the same immediately to the appropriate authority. It additionally set forth a penalty for false reporting of accidents to any law enforcement officers or the Department of Safety concerning an accident or alleged accident. This bill further sets forth the requirements and procedures for the establishment of safety and security zones on public and coastal waters of the state in cases of emergency requiring prompt action. Additionally, this bill sets forth certain carnival and amusement ride definitions and authorizes the Commissioner of Safety pursuant to RSA 541-A to establish rules for the safe installation, maintenance, use, operation and inspection of all carnival and amusement rides. Vote 14-0.

#### **SB 510-FN, relative to simple assault. INEXPEDIENT TO LEGISLATE**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: The bill, as adopted by the Senate, adds the requirement that the actor "intended to do harm" to the culpable mental state. The result of this change would drastically alter the criminal code, not just simple assault but the domestic violence statutes and allow conduct that is now prohibited to occur without penalty. Unprivileged physical contact is often the charge utilized when a sexual assault occurs that requires proof that the touching occurred for sexual gratification and the element of sexual gratification can't be proven. This allows the actor who pats or grabs a portion of the anatomy that is covered under the sexual assault statutes to be charged that they knowingly caused unprivileged conduct by grabbing or touching that part of the anatomy. The bill would allow a person to push/shove another or to poke a finger onto a person's chest repeatedly without recourse as long as they claim no "intent to harm". Testimony disclosed no anecdotal evidence of abuse of the current law. There were only two other incidents that were related to the committee and they had occurred in the distant past. The committee felt strongly that to change the current law would create a great deal of harm when there was no showing that a problem existed. Vote 15-1.

#### **SB 511-FN, relative to the penalties for rioting. OUGHT TO PASS WITH AMENDMENT**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill makes it a Class B felony to knowingly throw, or cause to propel, any object or substance of any kind at any uniformed law enforcement or uniformed emergency responder regardless of whether such object actually strikes the officer or emergency responder. This is part of the riot section of the Breach of Peace Law. There was considerable testimony from police chiefs, university representatives, and the Attorney

General in support of this bill because of acts perpetrated against law enforcement officers during the recent disturbances in Durham. One person, speaking in opposition, said that this bill would allow prosecutors to charge a person who threw confetti at a law enforcement officer or emergency responder with a Class B felony. While the bill does state "any object" common sense would dictate that no prosecutor or police chief would risk their reputation before the court by bringing a frivolous charge for throwing innocuous, harmless objects and since the charge is a felony, the case could only be brought by the Attorney General or a County Attorney. Vote 17-0.

#### Amendment (0694h)

Amend RSA 644:1, IV as inserted by section I of the bill by replacing it with the following:

IV. Riot is a class B felony if, in the course of and as a result of the conduct, any person suffers physical injury, or substantial property damage or arson occurs, or the defendant was armed with a deadly weapon, *or knowingly throws or causes to propel any object or substance of any kind at any uniformed law enforcement officer or uniformed emergency responder, regardless of whether such object actually strikes the uniformed law enforcement officer or uniformed emergency responder*, except that if the deadly weapon was a firearm, he *or she* shall be sentenced in accordance with RSA 651:2, II-g. Otherwise, it is a misdemeanor.

#### AMENDED ANALYSIS

This bill adds the act of throwing or propelling any object or substance at a uniformed law enforcement officer or emergency responder as a class B felony under the riot statute.

#### **SB 333-FN, establishing a unique pupil identification system. OUGHT TO PASS WITH AMENDMENT**

Rep. Michael A. Balboni for Education: The establishment of a unique pupil identifier is essential to the implementation of a statewide system of student data collection to meet the policy development, program improvement, and program accountability needs of our school districts and state. The implementation of a unique student identifier has several advantages toward the goal of improving pupil achievement. The state collection of individual pupil data is required to (1) account for pupil transfers between schools, (2) respond to the needs of superintendents and administrators to perform gains-based analysis of pupil progress, (3) help minimize the dropout risk for children under the age of 16, (4) improve the ability to make sound policy decisions for the purpose of pupil achievement and improvement, (5) improve the accuracy of existing aggregate data requests, (6) provide reliable data to the citizens of New Hampshire, and (7) reduce the burden on school districts in collecting aggregated data. In order to maintain personal privacy, the amendment to the bill addresses several privacy and security concerns regarding the information collected and maintained by the state. The amendment also provides direct legislative oversight of the process. Vote 11-0.

#### Amendment (1085h)

Amend the bill by replacing all after the enacting clause with the following:

I Purpose Statement. In order to improve pupil achievement, the collection of pupil data is required to:

- I. Account for pupil transfers between schools.
- II. Respond to the needs of superintendents and administrators to perform gains-based analysis of pupil progress.
- III. Help minimize the dropout risk for children under the age of 16.
- IV. Improve the ability to make sound policy decisions for the purpose of pupil achievement and improvement.
- V. Improve the accuracy of existing aggregate data requests.
- VI. Provide reliable data to the citizens of New Hampshire.
- VII. Reduce the burden on school districts in collecting aggregated data.

2 Adequate Public Education; Delivery of an Adequate Education. RSA 193-E:3, IV is repealed and reenacted to read as follows:

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and multi-racial groups.

3 New Section; Adequate Public Education; Unique Pupil Identification. Amend RSA 193-E by inserting after section 3 the following new section:

193-E:4 Unique Pupil Identification.

I. The department of education shall implement and maintain a unique pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil, including but not limited to name, date of birth, gender, or social security number shall be collected or maintained by the state in such a manner that would allow such information to be connected with the unique pupil identification system. Under no circumstances shall the department of education use social security numbers as an identifier for any pupil.

(b) The pupil identification system shall make available to each school district a unique pupil identifier for each pupil. The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, school district, sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be controlled by the local school district. The unique pupil identifier shall remain with the pupil throughout his or her academic career in New Hampshire.

(d) Only a superintendent, or designee, may access pupil identification information maintained by the state for pupils enrolled in that school administrative unit. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The unique pupil identification system shall create and maintain an audit trail for all users.

(f) No person, including an individual, business, government, or governmental entity such as a school district, shall be required to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind. Any person or entity violating the provisions of this paragraph shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this paragraph.

(g) If a pupil's records become part of an administrative action outside of the pupil's school district, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted.

(h) The data maintained in the unique pupil identification system shall be available to the department of education and to the public using the same database maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked.

(i) Unique pupil identification information shall be exempt from the provisions of RSA 91-A.

(j) No unique pupil identification information shall be given to any other person or entity absent a court order. Under no circumstances shall unique pupil identification information shall be given to any person or entity outside of New Hampshire.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:8 shall perform any revisions to this section through legislation filed for that purpose.

4 New Subparagraph; Statewide Assessment and Improvement Education Program; Legislative Oversight Committee. Amend RSA 193-C:8 by inserting after subparagraph VIII the following new subparagraph:

IX. Review the unique pupil identification system established in RSA 193-E:4 and propose legislation needed as a result of the review.

5 New Paragraph; Public Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Unique pupil identification information collected in accordance with RSA 193-E:4.

6 Effective Date. This act shall take effect August 1, 2004.

#### AMENDED ANALYSIS

This bill sets forth requirements for a unique pupil identification system.  
Referred to Finance.

**SB 351-FN**, relative to concurrent enrollment at regional vocational education centers. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: This bill was at the request of the Department of Education and seeks to clarify the financial responsibilities for students concurrently enrolled in their regular high school and a regional vocational education center. Vote 13-0.

**Amendment (0910h)**

Amend RSA 188-E:6, III as inserted by section 1 of the bill by replacing it with the following:

*III. The state shall be responsible for only 75 percent of the vocational education tuition for a student enrolled in a vocational course if enrollment on a full-time basis is not approved by the department of education, and the sending district shall be responsible for any remaining tuition.*

**SB 352-FN-L**, relative to computing school building aid grant amounts. **OUGHT TO PASS**

Rep. John Alger for Education: The bill was a request of the Department of Education to clarify state building aid law. Funds received by school districts from trusts, bequests, gifts and insurance policies will no longer be eligible for computing building aid growth. Vote 13-0.  
Referred to Finance.

**SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: This bill, unanimously passed by the committee, gives degree-granting authority to the Hellenic American University. During testimony, we learned that the HAU is an outgrowth of the Hellenic American Union, founded in 1957. This Charter will allow the University to continue working to provide degrees to its students subject to the authority of the NH Post-Secondary Education Commission. Additionally, the bill gives degree-granting authority to St. Joseph School of Nursing following the same review of the Post Secondary Education Commission. Vote 13-0.

**Amendment (1001h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** giving degree-granting authority to the Hellenic American University and the St. Joseph School of Nursing.

Amend the bill by replacing section 2 with the following:

2 St. Joseph School of Nursing. St. Joseph School of Nursing, located in Nashua, New Hampshire, is hereby authorized to confer degrees upon its graduates, subject to the authority of the postsecondary education commission under RSA 188-D:8, IV. The degrees shall be specified by the postsecondary education commission as provided in RSA 292:8-h, III.

**AMENDED ANALYSIS**

This bill gives degree-granting authority to the Hellenic American University.

This bill also give degree-granting authority to the St. Joseph School of Nursing.

**SB 311**, relative to civil penalties for unlawful campaign practices. **OUGHT TO PASS**

Rep. Howard C. Dickinson for Election Law: This bill received a strong vote in the Election Law Committee because we support the authorization of civil penalties for violation of laws prohibiting distribution of campaign materials at polling places, anonymous push-polling, improper removal, defacing, or destroying of political advertising, and misrepresenting a candidate without authorization. These violations will be handled by the Attorney General's Office, and any civil penalties paid will be deposited in the election fund established pursuant to RSA 5:6-d. Vote 10-1.

**SB 489**, relative to requests for special elections. **INEXPEDIENT TO LEGISLATE**

Rep. Charles F. Weed for Election Law: This bill proposed that in a multi-ward/town district, a majority of the wards/towns be required to call for a special election in case of a vacancy. An amendment proposed that no special election be held after March 15 of the 2nd year of the biennium. In the hearing, questions indicated there would be many unintended consequences. For instance, in multi-ward districts, would the decision makers requesting a special election be selectmen, aldermen, or councilors. The problem would grow with combined districts including cities and towns. We trust the common sense of towns/wards requesting a special election to use fiscal and common sense in scheduling special elections, whenever possible with timely regularly scheduled elections. The unanimous belief was that existing law preserves the very important principle of fair representation. Vote 11-0.

**SB 527**, relative to sessions for correction of checklists. **INEXPEDIENT TO LEGISLATE**

Rep. Raymond Buckley for Election Law: The sponsors of this bill requested that the committee find the bill ITL because the problem that the bill attempted to rectify was found by the Attorney General's Office not to exist. Vote 11-0.

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. **OUGHT TO PASS**

Rep. Nelson S. Allan for Executive Departments and Administration: This Joint Resolution of the House prohibits the Department of Transportation from adopting proposed Administrative Rule Tra 601.15 and establishes a committee to study the issue of advertising signs in the state right-of-way in light of the possible conflict with federal law and the state and federal constitutions, and to determine whether there are alternatives that would not have the potential for loss of federal highway funds to the state. The Joint Legislative Committee on Administrative Rules voted on December 4, 2003 to enter a final objection to a rule proposed by the Department of Transportation, Tra 601.15, which allows businesses with driveway access to a highway to place advertising signs within the state right-of-way. The objection was on the grounds that it is contrary to legislative intent because it violates federal statutes and regulations, violates the New Hampshire and United States Constitutions, and has a substantial economic impact not recognized in the fiscal impact statement. The study committee shall report its findings and any recommendations for proposed legislation by November 1, 2004. Vote 12-0.

**HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). **OUGHT TO PASS**

Rep. Nelson S. Allan for Executive Departments and Administration: This Joint Resolution of the House prohibits the Liquor Commission from adopting proposed administrative rule Liq 404.05(d)(3) as contained in proposal 2003-30 and directs the House Commerce Committee and the Senate Executive Departments and Administration Committee to review whether the general court should establish occupancy requirements for extended service areas under RSA 178:24. In proposal 2003-30 to the Joint Legislative Committee on Administrative Rules, the Liquor Commission proposed Administrative Rule Liq 404.05(d)(3) relative to the requirement for certain liquor licensees to extend their service to areas outside their licensed premises. The Joint Legislative Committee on Administrative Rules voted on September 18, 2003 to enter a final objection and to sponsor a Joint Resolution on the grounds that the Liquor Commission has exceeded its authority by establishing occupancy requirements for the service area while the general court has elected not to establish such requirements, and that the municipal notice provisions are not clear and understandable, and are therefore not in the public interest. Vote 11-1.

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. **OUGHT TO PASS WITH AMENDMENT**

Rep. William R. Zolla for Executive Departments and Administration: This bill adds to the administrative section of RSA 100-A:14 and makes it clear that the board of trustees shall have the authority to recover for its members benefits deemed not payable under this chapter as a result of a death of any retiree or beneficiary, or as a result of a remarriage of a spouse in receipt of benefits. The amendment to this bill covers medical benefits to group II police and fire personnel employed after June 30, 2004, who may become disabled during their term of service. Usually a two year housekeeping matter, this bill has been put in on a yearly basis since the reduction in the special accounts due to market conditions and other utilization of funds. This matter was contained in a previous Senate bill found inexpedient to legislate due to other matters and costs. Vote 15-2.

#### **Amendment (0832h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the recovery by the retirement system of the overpayment of benefit amounts and relative to payment of medical benefits costs for disabled group II members of the retirement system.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Group II Disabled Members; Medical Benefits; Application. Amend RSA 100-A:55, I to read as follows:

I. The additional benefits provided under RSA 100-A:52 shall apply to persons who are active or retired members of group II as of June 30, 2000; to persons who prior to July 1, 1988, had completed no less than 20 years of group II creditable service, but who for reasons other than retirement or death ceased to be a group II member prior to attaining the age of 45, and who, as

of July 1, 1993, are eligible for vested deferred retirement benefits; and to persons who are group II permanent policemen or permanent firemen members on disability retirement as the natural and proximate result of injuries suffered while in the performance of duty who become permanent policemen members of group II before July 1, [2004] 2005 or permanent firemen members of group II before July 1, [2004] 2005. Such additional benefits shall not apply to other persons who become members of group II after the dates stated in this paragraph, without future legislation to include them. It is the intent of the legislature that future group II members shall be included only if the total cost of such inclusion can be funded by reimbursement from the special account established under RSA 100-A:16, II(h).

#### AMENDED ANALYSIS

This bill allows the board of trustees of the retirement system to recover the overpayment of benefit amounts which were paid after the death of a retiree or beneficiary or after the remarriage of a surviving spouse.

This bill also extends the year of eligibility of group II disabled members for the payment of medical benefits costs by the retirement system.

Referred to Finance.

**SB 330-FN**, relative to creditable service of retirement system members reemployed after qualifying military service. **OUGHT TO PASS**

Rep. William R. Zolla for Executive Departments and Administration: This bill is relative to the accrual of and payment of creditable service of retirement system members who enter military service as defined in federal law and become re-employed by the state or political subdivision that is a member of the retirement system at the end of their service period. It brings the New Hampshire Retirement System into compliance with Uniformed Service Employment and Reemployment Act (USERRA). There was some question as to whether a 28-a issue was involved with the employer portion of the buy back time, but this is made mandatory not by the state but by the federal government for veterans of the uniformed services. Vote 15-0.

**SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members. **OUGHT TO PASS WITH AMENDMENT**

Rep. William R. Zolla for Executive Departments and Administration: This bill is enabling legislation that allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement system not previously approved by the legislature without affecting the federal tax-exempt status of the New Hampshire Retirement System. Section 1 of the bill has been amended to allow the political subdivisions involved additional time to comply with the requirements of the bill. Section 2 of the amendment repeals RSA 100-A:16, I (c) relative to additional contributions by or on behalf of a member. Section 3 of the amendment modifies RSA 100-A:4-b, I(c) the section of the retirement statute involving Group I credit for out of state service involving membership and application times by eliminating constraining time criteria which would have prohibited such purchases. Vote 16-1.

#### Amendment (1038h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

Amend the bill by replacing all after the enacting clause with the following:

1 Retirement System; Political Subdivision Employees; Purchase of Certain Prior Service Credit.  
Amend RSA 100-A:28 to read as follows:

100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provisions of law which provides wholly or in part at the expense of the state or any other employer, for retirement benefits for employees, teachers, permanent policemen, and permanent firemen employed by the state or such other employer, their widows or other dependents, with respect to the same period of service for which they are eligible for benefits under the terms of this chapter. The provisions of this section shall not apply to any person participating in, or receiving or eligible to receive benefits under the old-age and survivors insurance provisions of Title II of the federal Social Security Act,

as amended or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the United States Internal Revenue Code of 1986, as amended. *The provisions of this section shall not apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who had participated in or deemed eligible to receive benefits under a retirement arrangement funded, wholly or in part, by contributions from a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state; provided, that such arrangement shall first be terminated in full, but in no event later than June 30, 2005 and, further provided, that the benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in accordance with the terms and conditions of such terminated retirement arrangement.*

2 Repeal. RSA 100-A:16, I(c), relative to additional contributions by or on behalf of a member, is repealed.

3 Retirement System; Group I; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-b, I(a) and (b) to read as follows:

(a) The member has terminated employment and active membership in the out-of-state system and~~[within 18 months thereafter;]~~ has become a group I member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[within 5 years after becoming a member of the New Hampshire retirement system or before July 1, 1995, whichever is later];~~ and

4 Retirement System; Group II; Credit for Out-of-State Service; Membership and Application Times. Amend RSA 100-A:4-c, I(a) and (b) to read as follows:

(a) The member has terminated regular full-time employment and active membership in the out-of-state system and~~[within 18 months thereafter;]~~ has become a member of the New Hampshire retirement system; and

(b) The member applies for out-of-state credit, on a form designated by the board~~[within 5 years after becoming a member of the New Hampshire retirement system, or before July 1, 1995, whichever is later];~~ and

5 Political Subdivision Membership; Modifications; Petition for Credit. Amend RSA 100-A:22 to read as follows:

100-A:22 Modifications. Membership in the retirement system shall be optional for officers and employees of the employer who are in the service of the employer on the date when participation becomes effective, and any such officer or employee who elects to join the retirement system within one year thereafter shall be credited with prior service covering such periods of prior service rendered to such employer for which the employer is willing to make accrued liability contributions. If the employer is unable or unwilling to make such contributions, a member in service may petition the board of trustees ~~[within 5 years from the date when the employer's participation becomes effective]~~ for periods of prior service rendered to such employer. Upon payment by the member of the amount determined in accordance with RSA 100-A:3, VI(b) and with the approval of the board, the member shall receive credit for such prior service. Thereafter, service for such employer on account of which contributions are made by the employer and member shall also be considered as creditable service. Membership shall be compulsory for all employees entering the service of such employer after the date participation becomes effective. Municipalities may, by action of their city council or board of selectmen, exempt their chief administrative officer, as an unclassified employee, from compulsory membership provided herein. The chief fiscal officer of the employer, and the heads of its departments, shall submit to the board of trustees such information and shall cause to be performed with respect to the employees of such employer, who are members of the retirement system, such duties as shall be prescribed by the trustees in order to carry out the provisions of this chapter.

6 Effective Date.

I. Section 2 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2004.

## AMENDED ANALYSIS

This bill:

I. Allows certain political subdivision employee members of the retirement system to purchase prior service credit where the member participated in a local retirement plan.

II. Repeals the provisions for making additional contributions for the benefit of a member's retirement allowance.

III. Removes time frames for applications to purchase service credit.  
Referred to Finance.

**SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charles Q. Hall for Executive Departments and Administration: This bill provides for voluntary certification of persons engaged in the business of servicing, installing or maintaining fire extinguishes, fire suppression devices and fire alarm detection systems. Vote 17-0.

#### **Amendment (0999h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; Portable Fire Extinguisher and Fixed Fire Extinguishing Systems, Fire Sprinkler Systems, and Fire Alarm and Detection Systems; Commission. Amend RSA 153 by inserting after section 5 the following new sections:

153:5-a Fire Equipment Servicing Certification. The commissioner of safety, in consultation with the advisory committee established in RSA 153:5-b, shall adopt rules pursuant to RSA 541-A, for the voluntary certification of persons engaged in the inspection, installation, and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems in this state. Such rules may include the issuance of various types and classes of certificates, and a fee not to exceed \$200 for such issuance, for an individual or firm engaged in the installation or servicing of such extinguishing and detection systems. Fees shall be deposited in the fire standards and training and emergency medical services fund, established in RSA 21-P:12-d. Applicants for certification shall provide proof of certification by a national organization recognized by the commissioner and provide proof of insurance.

153:5-b Advisory Committee on Portable Fire Extinguisher and Fixed Fire Extinguishing Systems Fire Sprinkler Systems, and Fire Alarm and Detection Systems. The commissioner shall establish a committee to advise and assist the commissioner on the rulemaking requirements and implementation of the voluntary certification of persons engaged in the inspection, installation, and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems in this state provided for in RSA 153:5-a. The commissioner shall appoint the members of the advisory committee, with the state fire marshal serving as an ex-officio member, as follows:

I. One representative of the sprinkler system industry.

II. One representative of the New Hampshire Plumbing and Mechanical Contractor's Association, nominated by the association.

III. One representative of the portable fire extinguisher industry.

IV. One person experienced in the design of fixed extinguishing systems.

V. One representative of the New Hampshire Association of Fire Chiefs, nominated by the association.

VI. One representative of the New Hampshire Fire Prevention Society, nominated by the society.

VII. One representative of the New Hampshire Alarm Association, nominated by the association.

VIII. One representative of the Electrical Contractors Business Association, nominated by the association.

IX. One building code enforcement official nominated by the New Hampshire Municipal Association.

X. One member of the state electrician's board.

2 Effective Date. This act shall take effect January 1, 2005.

#### **AMENDED ANALYSIS**

This bill requires the commissioner of safety to adopt rules for the certification of persons engaged in the servicing and installation of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems in this state. The bill also establishes an advisory committee.

This bill also requires that fees for certification be deposited in the fire standards and training and emergency medical services fund.



**SB 380**, establishing a statewide incident command system. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charles Q. Hall for Executive Departments and Administration: This bill authorizes the commissioner of the department of safety to establish a statewide incident command system based on a federal model for emergency management. The statute is needed to allow the State of New Hampshire to apply for and receive Homeland Security funds. Vote 17-0.

**Amendment (0971h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Statewide Incident Command System. Amend RSA 21-P by inserting after section 51 the following new subdivision:

Statewide Incident Command System

21-P: 52 Incident Command System Adopted. There shall be a statewide incident command system based on the incident command system of the National Interagency Incident Management System. The commissioner of safety shall adopt rules pursuant to RSA 541-A to implement the statewide incident command system. The statewide incident command system shall be used in responding to any natural or man-made cause that requires emergency management by multiple agencies or departments within state and local government.

2 Effective Date. This act shall take effect 60 days after its passage.

**SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system. **OUGHT TO PASS WITH AMENDMENT**

Rep. William L. Zolla for Executive Departments and Administration: This bill allows for an optional retirement annuity benefit for members of the Manchester retirement system. The provisions of the bill are subject to a referendum vote by the voters of Manchester. The legislature authorized the creation of the Manchester retirement system in 1973 and as such, must approve all changes thereto prior to local approval. The amendment to the bill requires, subject to referendum approval, that the approved referendum take effect on July 1, 2005. Vote 16-0.

**Amendment (1037h)**

Amend the bill by replacing all after section 1 with the following:

2 Referendum. At the election to be held in the city of Manchester in September or November, 2004, the city clerk then in office shall cause to be included on the ballot the following statement and question: "A contributory retirement plan for city employees was adopted by the voters of Manchester at the November 1973 election. The plan became effective in January 1974, and now, benefit improvements are requested. Are you in favor of the passage of an act of the General Court of 2004, amending section 12 of the city of Manchester employees contributory retirement system to provide for an optional retirement annuity benefit?" Beneath this statement and question shall be printed the word "Yes" and the word "No" with a square immediately opposite such word in which the voter may indicate his or her choice. If a majority of the voters present and voting on the question shall signify their approval thereof, this act shall be declared adopted effective July 1, 2005, except as otherwise provided within the act. The city clerk shall, within 10 days after said election, certify to the secretary of state the result of the vote on the question.

3 Effective Date. Section 2 of this act, relative to the referendum, shall take effect upon its passage. If the provisions of section 1 of this act shall be adopted as provided in section 2, said provisions shall be declared adopted and shall become effective July 1, 2005.

**SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services and a division of fire safety in the department of safety. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charles Q. Hall for Executive Departments and Administration: This is a housekeeping measure to put into statute changes made last year within the Department of Safety. The Division of Fire Standards and Training had the addition of Emergency Medical Services added. Fire Safety is now a stand-alone division. The Office of Emergency Management and Emergency Communications were combined to create a division within the Department of Safety. Vote 15-3.

**Amendment (0987h)**

Amend the bill by replacing sections 8-11 with the following:

8 Department of Safety; Advisory Council on Emergency Preparedness and Security. Amend RSA 21-P:48, I(f) to read as follows:

(f) The ~~[state fire marshal]~~ *director of the division of fire safety.*

9 Compensation of State Officers. Amend RSA 94:1-a, I(b), as follows:

I. By deleting in Grade EE:

EE Department of safety, bureau  
of emergency management assistant bureau chief

II. By deleting in Grade FF:

FF Department of safety, bureau  
of emergency management bureau chief

10 Compensation of Director and Assistant Director of the Division of Emergency Services, Communications, and Management.

I. If HB 1364 of the 2004 legislative session becomes law and the joint committee on compensation of state officers is established, the unclassified salaries of the director and the assistant director, division of emergency services, communications and management shall be adopted after the review and allocation approval by the joint committee on compensation of state officers pursuant to the procedure in RSA 94:1-d and RSA 94:10.

II. If HB 1364 of the 2004 legislative session does not become law, the unclassified salaries of the director and the assistant director, division of emergency services, communications and management shall be adopted after the review and allocation approval by the fiscal committee pursuant to the procedure in RSA 94:1-d and RSA 14:30-a.

11 Director and Assistant Director of the Division of Emergency Services, Communications, and Management; Retirement System. Amend RSA 21-P:36-a to read as follows:

21-P:36-a Assistant Chief of Bureau of Emergency Management; Retirement System. For purposes of classification under the provisions of RSA 100-A, the ~~[assistant chief of the bureau of emergency management]~~ *the assistant director of the division of emergency services, communications, and management* shall be *eligible to be* a group II member if the ~~[assistant chief]~~ *assistant director* was a member of group II for at least 10 years prior to *his or her* appointment ~~[as the assistant chief of the bureau of emergency management under RSA 21-P:3]~~.

Amend the bill by replacing section 24 with the following:

24 Department of Safety; Remove References to Division and Bureau of Fire Safety. Amend the introductory paragraph of RSA 21-P:12 to read as follows:

21-P:12 Division of Fire Safety ~~[and Emergency Management; Bureau of Fire Safety]~~. There is established within the department a division of fire safety ~~[and emergency management under the supervision of the assistant commissioner]~~. Such division shall be ~~[composed of the bureau of fire safety and the bureau of emergency management. The bureau of fire safety shall be]~~ under the supervision of an unclassified ~~[chief of the bureau of fire safety]~~ *director* who shall be known as the state fire marshal. The state fire marshal shall be nominated by the commissioner of safety, after consultation with the state advisory board of fire control, for appointment by the governor, with the consent of the council, and shall serve a term of 4 years until a successor is appointed. If no successor has been appointed with the consent of the council within 6 months of the expiration of the term, the governor shall appoint a successor with the consent of the council. The state fire marshal shall be academically and technically qualified to hold the position. The state fire marshal shall be a citizen of this state or become a citizen of this state within one year of his or her appointment. He or she shall devote his or her entire time to the duties of the ~~[bureau]~~ *division* of fire safety and shall receive the salary specified in RSA 94:1-a for the state fire marshal. The state fire marshal shall be responsible for the following functions, in accordance with applicable law: Amend RSA 21-P:12-a, I as inserted by section 26 of the bill by replacing it with the following:

I. There is established within the department a division of fire standards and training *and emergency medical services* under the supervision of an unclassified director of fire standards and training *and emergency medical services* who shall administer and supervise a fire *and emergency medical* service training and research program throughout the state. The director of fire standards and training *and emergency medical services* shall be nominated by the commissioner of safety, after consultation with the fire standards and training commission *and the emergency medical and trauma services coordinating board*, for appointment by the governor, with consent of the council, and shall serve a term of 4 years until a successor is appointed. The commission shall take a recorded vote regarding its concurrence or non-concurrence in the commissioner's nomination decision. If the commission votes not to concur in the decision, it shall submit a letter to the commissioner so stating, and the commissioner shall in turn submit that letter to the governor and

council. The director of fire standards and training *and emergency medical services* shall be academically and technically qualified to hold the position, and shall receive the salary specified in RSA 94:1-a.

Amend RSA 21-P:12-d as inserted by section 27 of the bill by replacing it with the following:

21-P:12-d Fire Standards and Training and Emergency Medical Services Fund. There is established in the office of the state treasurer a separate, nonlapsing fund to be known as the fire standards and training and emergency medical services fund from which the state treasurer shall pay expenses incurred in the administration of the division of fire standards and training *and emergency medical services*, under RSA 21-P:12-a, [~~the division of emergency medical services, under RSA 21-P:12-b, and~~] the division of fire safety [~~and emergency management~~], under RSA 21-P:12, *and the bureau of emergency management in the division of emergency services, communications, and management under RSA 21-P:36*. If the expenditure of additional funds over budget estimates is necessary for the proper functioning of the division of fire standards and training [~~the division of~~] *and emergency medical services*, [~~or~~] the division of fire safety [~~and emergency management~~], *or the bureau of emergency management in the division of emergency services, communications, and management*, the department of safety may request, with prior approval of the fiscal committee of the general court, the transfer of funds from the fire standards. Amend the bill by replacing section 31 with the following:

31 New Hampshire Retirement System; Membership. Amend RSA 100-A:3, III-c to read as follows:

III-c. Notwithstanding the provisions of RSA 100-A:1, VIII, any permanent fireman who has been a group II member and who has 10 years' fire service experience, or any person included in the definition of "fire service personnel" as defined in RSA 21-P:25, II(c) who has 10 years' fire service experience, who is or becomes the [~~state fire marshal, the administrator of the fire standards and training commission~~] *director of the division of fire safety, the director of the division of emergency services, communications, and management, the director of the division of fire standards and training and emergency medical services*, any fire instructor, supervisor, instructor, or other technical specialist who has hazardous materials, firefighting, or rescue training functions and who has as a job requirement satisfied the fire standards and training commission's entrance and certification requirements for physical condition, education, and training shall be construed to be a permanent fireman for the purposes of membership in group II and shall remain in the system for the duration of service in that capacity with the fire standards and training commission.

**SB 469**, relative to licensing of boiler inspectors. **OUGHT TO PASS WITH AMENDMENT**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill would have boiler inspectors renew their license every year instead of every two years. In doing this, the industry will become more in line with the national board on which the state relies heavily for licensing our boiler inspectors. Vote 14-0.

#### **Amendment (0908h)**

Amend RSA 157-A:7, II as inserted by section 1 of the bill by replacing it with the following:

II. A license shall be issued by the commissioner to an inspector for a [~~2-year~~] *1-year* period. A fee of \$30 shall be charged for the license. A license may be renewed every [~~2-years~~] *year* upon payment of a fee of \$20. Employees of the department of labor shall not be charged for the issuance or renewal of a license.

**SB 470-FN**, relative to funding for the physician effectiveness program. **OUGHT TO PASS**

Rep. William L. Zolla for Executive Departments and Administration: This bill increases from \$20.00 to \$30.00 the amount from each medical license renewal to provide for the physicians effectiveness program. The program is to ensure that physicians whose effectiveness becomes impaired due to physical, mental, addiction or other problems can be helped by their own organization in the protection and care of their patients. The Board of Medicine stated that there are 4495 physicians licensed to practice in New Hampshire and that licenses are renewed every other year. Vote 17-0. Referred to Ways and Means.

**SB 497-FN**, relative to renewal of electrician's licenses. **OUGHT TO PASS**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill changes the license renewal for electricians from one year to three years. This will allow the license cycle to

coincide with the 3-year revision of the National Electrical Code and the currently existing continuing education requirement cycle. The bill also calls for registration of apprentice electricians with the board. Vote 14-0.

**SB 499**, making a change to the electrician licensing exemption. **OUGHT TO PASS**

Rep. Paul G. LaFlamme for Executive Departments and Administration: This bill clarifies that only the owner of a single family occupied residence may make electrical installations without being a licensed electrician. The bill also extends the exemption to work done in areas outside of the residence such as a garage or swimming pool. Nothing in the bill should be construed as not exempting owner performed work on a second home solely occupied by the owner. Vote 14-0.

**SCR 6**, designating January as stalking awareness month. **OUGHT TO PASS**

Rep. Anne Marie Irwin for Executive Departments and Administration: This resolution designates January as stalking awareness month. The resolution has three key elements. The first is to educate the people of New Hampshire about stalking. The second is to recognize the efforts of the many service providers, police and prosecutors for their efforts to promote awareness about stalking. The final critical element of this resolution is to increase the awareness of services available for stalking victims. Vote 13-0.

**SB 336-L**, relative to certain costs in the development of a high school in the town of Bedford. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: This bill was introduced and passed through the Senate to help Bedford with a problem situation in regard to educating its high school students. The amendment adds the words "up to" before potentially bonded funds. It also makes the bill effective upon passage to help the Bedford School District move forward this spring to solve its school challenges. Vote 18-0.

**Amendment (0880h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Town of Bedford; Specific Development Costs.

I. Notwithstanding the provisions of RSA 33, the Bedford school district may recognize an amount up to \$10,600,000, representing payment of capital costs to the Manchester school district for the renovation and expansion of Manchester's 3 high schools, as costs available for long-term financing by the issuance of bonds or notes.

II. Notwithstanding the provisions of RSA 33, the Bedford school district may issue bonds or notes in an amount up to \$10,600,000 upon the approval of such bonds or notes by the Bedford school district on or before the date of the 2006 Bedford annual school district meeting.

2 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill permits the Bedford school district to issue bonds or notes in an amount up to \$10,600,000, which represents the capital costs paid by Bedford to the Manchester school district for the education of Bedford students for the 2003-2006 school years.

**SB 337**, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals. **OUGHT TO PASS**

Rep. Robert J. Laflam for Fish and Game: This bill enables the New Hampshire Fish and Game Department to more soundly manage wildlife species harvested by trapping and defines liability and responsibility of trappers for certain injuries to domestic animals. Vote 13-0.

**SB 340**, relative to the release of information on fish stocking by the executive director of fish and game. **OUGHT TO PASS**

Rep. Robert J. Laflam for Fish and Game: This bill removes the time limits on the release of information on fish stocking by the Executive Director of the Fish and Game Department and hopefully will encourage the sale of more fishing licenses. The committee felt that the release of information is more properly in the hands of the Fish and Game Department. Vote 11-3.

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. **OUGHT TO PASS WITH AMENDMENT**

Rep. Betsy McKinney for Fish and Game: This bill increases the amount of small gifts and donations that the Fish and Game Commission can accept from \$500 to \$2500 without going before the Governor and Executive Council for approval. This was a recommendation from the Department of Administrative Services. The amendment allows this amount only to once per year per entity. Additionally, the bill resolves a conflict between RSA 215-A:23, V and RSA 215-A:22 when fee amounts were changed in 1997 and RSA 215-A:24 when a fee change went into effect 7/1/2002 and was not changed in this section. Vote 13-0.

#### Amendment (0633h)

Amend the bill by replacing section 1 with the following:

1 Fish and Game Fund; Account for Gifts and Donations. RSA 206:33-a is repealed and reenacted to read as follows:

206:33-a Gifts and Donations; Account Established.

I. Notwithstanding any other provision of law to the contrary, individual gifts and donations not exceeding \$2,500 in value in a year may be received by the fish and game department with the consent of the commission and without the approval of the governor or the governor and council. Individual gifts and donations exceeding \$2,500 in value in a year may be received by the fish and game department with the consent of the commission and with the approval of the governor and council.

II. There is established an account within the fish and game fund to be known as the gifts and donations account. Moneys in the gifts and donations account are nonlapsing and continually appropriated to the fish and game department. All gifts and donations shall be deposited in this account, except gifts and donations made to the department in support of a specific program that has an established dedicated account in title XVII which shall be deposited into the appropriate dedicated account and expended in accordance with the purpose of the dedicated account.

**SB 494**, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Joan C. Tate for Fish and Game: This bill updates reciprocity laws regarding lobster and crab licenses after a federal court decision in the State of New York. Lobster and crab licenses for non-residents of New Hampshire will not be allowed unless the state of residence allows New Hampshire fishermen to have licenses in their states. Currently, Maine and Massachusetts do not allow non residents to have such licenses and most states have moratoriums on lobster licenses. The New Hampshire Commercial Fisherman's Association "considers this a fair and equitable position in all respects". The amendment replaces "Shore" Fisheries with "Marine" Fisheries. Vote 14-0.

#### Amendment (0573h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the prohibition on taking conch and winkles; licensing requirements for taking lobsters and crabs; and changing the name of the advisory committee on shore fisheries to the advisory committee on marine fisheries.

Amend the bill by replacing all after section 6 with the following:

7 Fish and Game Commission; Reference to Advisory Committee on Shore Fisheries Changed. Amend RSA 206:2, II to read as follows:

II. Sporting clubs in each county may form a county sporting club board. Whenever an appointment is to be made to the commission, each board may nominate one to 3 persons and submit such recommendations to the governor for the governor's consideration. Whenever an appointment is to be made to the commission from the tidewater towns, the advisory committee on [shore] **marine** fisheries may nominate one to 3 persons and submit such recommendations to the governor for the governor's consideration.

8 Name Change; Advisory Committee on Marine Fisheries. Amend RSA 211:60 to read as follows: 211:60 Advisory Committee on [Shore] **Marine** Fisheries.

I. There is established an advisory committee on [shore] **marine** fisheries to recommend programs and policies regarding [shore] **marine** fisheries to the fish and game commission. The advisory committee shall consist of 5 members and one alternate member, all of whom shall be residents of the seacoast region, appointed by the governor and council.

II. The term of office of each member shall be for 3 years and until a successor is appointed and qualified. The alternate member shall attend all meetings of the advisory committee, and shall

act in the place of a member to make a quorum for the transaction of business, and may then vote on any motion with the powers granted to members. Members of the committee shall serve without compensation.

III. The duties of the advisory committee shall be to review and make recommendations as seems advisable relative to marine species. The committee shall have authority to hold hearings in the coastal towns on marine species.

9 Clams, Lobsters; Name Change. Amend RSA 211:61 to read as follows:

211:61 Clams, Lobsters. The advisory committee on [shore] *marine* fisheries as appointed under RSA 211:60 may recommend to the fish and game commission such rules and regulations as may be necessary for the propagation, preservation, and taking of clams, clam worms, lobsters, crabs, oysters, and other marine species. All laws and regulations relative to the taking, sale, possession, and transportation of lobsters, crabs, clams, clam worms, oysters, and other marine species shall remain in full force and effect until such time as they are changed under the authority contained in this section.

10 Marine Species; Reference to Advisory Committee on Shore Fisheries Changed. Amend RSA 211:62, I to read as follows:

I. Rules relating to the taking, inspection, and processing of marine species may be made by the executive director of the fish and game department with the approval of the fish and game commission, and upon the advice and cooperation of the advisory committee on [shore] *marine* fisheries.

11 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill:

I. Repeals the prohibition on taking conch and winkles.

II. Amends the nonresident licensure requirements for taking lobsters and crabs.

III. Changes the name of the advisory committee on shore fisheries to the advisory committee on marine fisheries.

#### **SB 384-FN**, relative to drugs paid for by the state. **INEXPEDIENT TO LEGISLATE**

Rep. J. Gail Barry for Health, Human Services and Elderly Affairs: The main purpose of this bill was cost savings to the state. It was felt it did not accomplish this and just made a complex situation more complicated. This was a bill that expected the pharmacies to know what the federal rebates were, when in fact the Department of Health and Human Services doesn't even know what the rebates are. According to the Department, this bill would not be effective, because of the unknowns, and serves no purpose at this time. The bill will be perhaps brought back later or reintroduced next session when the drug rebate program can be more clearly defined and implemented. Vote 14-0.

#### **SB 438**, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities. **OUGHT TO PASS**

Rep. James R. MacKay for Health, Human Services and Elderly Affairs: This bill provides for immunization against influenza and pneumonia for residents of hospitals, residential care facilities, adult day care facilities and assisted living facilities. Only consenting individuals will be immunized. There is no fiscal impact; in fact this should result in significant savings. Because this is a voluntary preventative measure, the committee strongly supported this measure. The committee felt that this is an important public health intervention that is intended to prevent the spread of serious infectious diseases. Vote 17-0.

#### **SB 436-FN-L**, relative to the Claremont and Newport district courts. **OUGHT TO PASS**

Rep. John Pratt for Judiciary: This bill allows Claremont and Newport to retain their district courts, provided that certain conditions are met by the City of Claremont regarding a new district court facility. The bill authorizes the City of Claremont and the state to enter into a lease or lease-purchase agreement for the renovations of a building to be used as a district courthouse. The building must be approved by the Court Accreditation Commission and the Administrative Office of the Courts. The bill also authorizes the Department of Administrative Services to enter into a lease agreement or a lease-purchase agreement with the City of Newport regarding the district courthouse in the City of Newport. Vote 16-0.

Referred to Finance.

**SB 465**, relative to testimony of witnesses about confidential settlements. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry Haytayan for Judiciary: The bill as amended provides disclosure of relevant information of prior litigation which was the subject of a confidential settlement agreement. It simplifies the Senate bill by making it clear that where the court finds information relevant to a pending proceeding, other than the settlement amount, the relevant information must be disclosed. Vote 14-0.

**Amendment (1056h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Confidential Settlement Agreements. Amend RSA 516 by inserting after section 33 the following new section:

516:33-a Confidential Settlement Agreements. For purposes of testimony, confidential settlement agreements in prior court actions shall not prevent a person from disclosing information other than the amount of the settlement, if the court finds the information is relevant to the pending action.

2 Effective Date. This act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill allows a person to disclose certain information from a prior legal action, even if there is a confidentiality agreement.

**SB 358**, relative to incompatibility of municipal offices. **OUGHT TO PASS**

Rep. Rep. Eric G. Stohl for Municipal and County Government: This bill clarifies office incompatibility for a town manager. The town manager is selected and appointed by the board of selectmen of a municipality with special reference to his/her education, training, and experience to perform the duties of the office, and without reference to his/her political belief. The town manager shall in all matters be subject to the direction and supervision, and hold office at the will of the selectmen. The town manager must take an oath and swear to be faithful and impartial in the performance of his/her duties. Some of the duties of the town manager are control and supervision of: municipal water works, lighting, and power systems; construction and maintenance of all town buildings, highways, and bridges; purchasing of all town supplies; police and fire departments; sewers and drainages; and several other duties. RSA 37:6, IX states, the town manager shall perform such other duties, consistent with his/her office, as may be required of him/her by vote of the selectmen. This bill simply allows town managers to be appointed to regional or state boards, committees, or commissions provided there is no incompatibility with the other duties. The bill also addresses some gender-neutral additions as well as some minor housekeeping language to make RSA 37:9 and RSA 669:8 read correctly. Vote 13-1.

**SB 456**, relative to record books maintained by registers of deeds. **OUGHT TO PASS**

Rep. James E. Twombly for Municipal and County Government: This bill expands the type of media registers of deeds may use to record and preserve deeds on instruments for record. This is a housekeeping bill, which will allow the registry of deeds to keep up with changing technology. Vote 12-0.

**SB 466**, relative to records management services of a municipality. **OUGHT TO PASS**

Rep. Robert W. Brundige for Municipal and County Government: This bill authorizes a municipality to offer records management and storage services to government and non-profit entities and limits a municipality's liability for any loss or damage. The city of Keene has purchased a warehouse building suitable for record keeping and would like to be able to offer this space for governmental record storage with a user fee to other governmental and non-profit entities. Many small towns do not have sufficient facilities to properly store their records. Facilities of this type at Keene and throughout the state would be very beneficial to these towns and non-profit agencies. Vote 12-0.

**SB 332-FN**, relative to tolls for disabled veterans. **INEXPEDIENT TO LEGISLATE**

Rep. Candace C.W. Bouchard for Public Works and Highways: The committee, while being very sympathetic to the intent, believed this legislation would open the door to other deserving patriots and heroes, such as combat veterans, disabled police officers and disabled firefighters. How can one group of disabled patriots and heroes receive the toll exemptions and not another? The committee also being very aware of the revenue impact toll exemptions would have on the State's financially struggling turnpike system felt this legislation would not be fiscally responsible. Vote 12-0.

**SB 381**, relative to the transfer of certain capital appropriations within the department of safety. **OUGHT TO PASS WITH AMENDMENT**

Rep. Candace C.W. Bouchard for Public Works and Highways: This bill allows the Department of Safety to transfer certain capital appropriations within the department. The amendment adds a new federally funded project, the Emergency Operations Center/Transportation Management Center. The committee held a hearing for a non-germane amendment. No new state dollars are appropriated. Construction management procurement procedures may be used for the Emergency Operations Center/Transportation Management Center. Vote 12-0.

**Amendment (0848h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the authorization for and transfer of certain capital appropriations within the department of safety.

Amend the bill by replacing section 1 with the following:

I Capital Budget; Department of Safety; Highway Fund Projects; Transfers Authorized. Amend 2003, 240:3, I to read as follows:

I. Department of Safety.

A. Finish Second Floor of DMV Building - Hazen Drive	\$ 370,000
B. Addition to DMV Building on Hazen Drive – Design/Build	3,900,000
C. Lab Expansion	167,400
D. Finish Troop D First Floor	589,000
Less Other	- 111,910

Net state appropriation subparagraph D 477,090

**E. Emergency Operations Center/Transportation Management Center**

	9,164,503
<b>Less Federal</b>	<b>-9,164,503</b>

**Net state appropriation subparagraph E 0**

Total state appropriation paragraph I \$ 4,914,490

The ~~sum~~ *sums* appropriated in subparagraph B for the construction of the DMV Building addition *and subparagraph E for the construction of the emergency operations center/transportation management center* shall not be spent, obligated, or encumbered until the department has received approval of the ~~plan~~ *plans* from the capital budget overview committee. *The emergency operations center/transportation management center may be constructed using construction management procurement procedures.*

*Notwithstanding section 9 of this act, the commissioner of the department of safety may transfer the appropriations made in paragraph I, A, B, C, and D between those individual project appropriations, if needed, to complete a project.*

**AMENDED ANALYSIS**

This bill allows the department of safety to transfer funds appropriated in the biennial capital budget. This bill also authorizes a federally funded emergency operations center/transportation management center.

**SB 401-FN**, relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system. **INEXPEDIENT TO LEGISLATE**

Rep. Candace C.W. Bouchard for Public Works and Highways: This bill would allow funeral processions to the New Hampshire State Veterans Cemetery after first notifying the Department of Transportation at least twenty-four hours in advance be granted toll free use of any section of New Hampshire Turnpike System. The committee was sympathetic to the intent of the bill, but legislation is not necessary because this issue can be handled administratively by DOT. The committee encourages DOT to continue the current process. Vote 12-0.

**SB 413-FN**, relative to financing federally aided highway projects. **OUGHT TO PASS WITH AMENDMENT**

Rep. Edwin O. Smith for Public Works and Highways: This bill, as it came to Public Works and Highways, was very similar to a bill we have in Interim Study in the House. The Committee



amended the bill entirely creating a Study Committee to determine a time line for the construction of the southerly part of I93 and also looking at alternative financing to complete that project in a more timely fashion. Vote 14-1.

### Amendment (1069h)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study the construction time frame and financing for the expansion of Interstate Route 93.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study the construction time frame and financing for the expansion of Interstate Route 93.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Three members of the house of representatives, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) One member from the financial field, appointed by the president of the senate.
- (d) One member from the construction field, appointed by the speaker of the house of representatives.

(e) One member from the business field, appointed by the governor.

(f) The commissioner of the department of transportation, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study the construction time frame and financing for the expansion of Interstate Route 93.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill establishes a commission to study the construction time frame and financing for the expansion of Interstate Route 93.

**SB 205-FN**, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire. **REFER FOR INTERIM STUDY**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: The ownership of the dam at Smith Pond has been in question after previous owners abandoned ownership in a dissolution process. Smith Pond is a 68 acre private pond in Enfield, abutted by New Hampshire Fish and Game property and two other property owners. The abutters expressed interest in funding a trust for dam maintenance and in conservation easements on adjacent property. Recent developments led the committee to believe there was difficulty in accomplishing the funding and establishing the easements. Interim Study will allow time to bring these plans together and clarify the related questions. Vote 13-0.

**SB 346**, relative to prohibiting the operation of snowmobiles on open water. **OUGHT TO PASS**  
Rep. H. Charles Royce for Resources, Recreation and Development: This bill will make it a violation for individuals to skim across open water on lakes, ponds and rivers with their snowmobiles. It has become a safety and environmental hazard when skimmers and their machines end up under water. It is also hazard for rescue personnel in 33 degree Fahrenheit water. This bill was a request of the Fish and Game Department which does the majority of snowmobile enforcement. The New Hampshire Snowmobile Association also supports this legislation. Vote 12-0.

**SB 377**, relative to damage to land by certain recreational uses. **OUGHT TO PASS WITH AMENDMENT**

Rep. H. Charles Royce for Resources, Recreation and Development: This bill provides that a land owner shall not be liable for violations of state wetland laws caused by the unauthorized actions of off-highway recreational vehicles (OHRVs) making use of private property. The Department of Environmental Services (DES) supported this legislation. This bill will not affect the Department's (DES) ability to enforce wetland laws against persons directly responsible for violations. Vote 12-0.

#### **Amendment (0741h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Limited Landowner Liability. Amend RSA 482-A:14-b by inserting after paragraph II the following new paragraph:

III. A landowner shall not be liable for violations of this chapter caused by persons operating OHRVs, as defined in RSA 215-A:1, V, in a location or in a manner not authorized by the landowner.

2 Effective Date. This act shall take effect upon its passage.

**SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking. **OUGHT TO PASS**

Rep. David M. Lawton for Resources, Recreation and Development: This bill will renew the option for Gunstock Area Ski Resort to withdraw water from Lake Winnepesaukee for snowmaking purposes. The 15-year extension grants Gunstock Area authorization to allow water withdrawals until 2020. The bill preserves the ability of the Department of Environmental Services to order the reduction, cessation or modification of the water withdrawal if environmental quality is jeopardized. Vote 12-0.

**SB 517**, relative to authorizing a 2-year program to use certain OHRV fees for publications and promotions. **INEXPEDIENT TO LEGISLATE**

Rep. Richard T. Cooney for Resources, Recreation and Development: This bill would establish a grant program to fund Granite State ATV Association Members and wheeled OHRV clubs for publication and promotions of these clubs. The funds would come from a fund established by HB 1273, passed in the last session. This fund was established for land purchases, easements, rights-of-way, and new construction of trails. The majority of the committee feels this fund should be used for its original use and that clubs should use their own funds and members to promote their sport and their clubs. In addition, it was felt that the State of New Hampshire should not be involved in generating funds for use by private clubs for these purposes. Vote 15-0.

**SB 488**, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams. **OUGHT TO PASS WITH AMENDMENT**

Rep. David M. Lawton for Resources, Recreation and Development: This bill establishes a study committee to address the problem of funding the state dam maintenance fund. Presently, the maintenance fund is used to repair and maintain the 269 state-owned dams and is funded solely by revenues generated from the leasing of 12 state dams to private hydropower producers. As early as 2005 the available balance will be inadequate to fully fund planned dam maintenance projects. The amendment requires that the House members appointed to the study committee be members of certain House committees. Resources, Recreation & Development, Science, Technology & Energy, Fish and Game, and Finance will be called on to serve. A joint hearing was held with the Science, Technology and Energy Committee. That committee concurs with the recommendation of the Resources, Recreation and Development Committee. Vote 15-0.

#### **Amendment (1074h)**

Amend subparagraph I (b) as inserted by section 2 of the bill by replacing it with the following:

- (b) Six members of the house of representatives, appointed by the speaker of the house:
  - (1) One of whom shall be a member of the finance committee;
  - (2) One of whom shall be a member of the fish and game committee;
  - (3) Two of whom shall be members of the science, technology and energy committee; and
  - (4) Two of whom shall be members of the resources, recreation and development committee.

**SB 379**, relative to safety inspection and certification of certain equipment of vehicles. **OUGHT TO PASS**

Rep. Brenda L. Ferland for Transportation: Currently vehicles are allowed to exceed the 80,000 lb. maximum weight limit on public highways (not the interstates) and go to 99,000 lbs., if the power unit has been inspected and certified by officers of the Division of Motor Vehicle. This re-inspection takes place annually. Passage of this bill eliminates the third redundant and costly inspection, unless there are changes to the truck, such as axles, tires size or springs, that would effect the carrying of heavy loads. The highway funds will not lose the \$421,000, plus yearly revenue under this bill. Companies will continue with two inspections and the same fees on a yearly basis. Vote 13-0.

**SB 126-FN-A**, exempting transfers of title between spouses from the real estate transfer tax. **IN-EXPEDIENT TO LEGISLATE**

Rep. Christopher C. Pappas for Ways and Means: The intent of the legislation is to exempt transfers of title between spouses from the real estate transfer tax. However, such transfers between married spouses are not currently taxed, according to the Department of Revenue Administration, and are simply subject to a \$40 processing fee. The effect of this bill is only to exempt transfers of title between spouses seeking a divorce prior to the issuance of a divorce decree, which the committee found was unjustifiable. Vote 13-0.

**SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records. **OUGHT TO PASS WITH AMENDMENT**

Rep. Susan W. Almy for Ways and Means: The postsecondary education commission provides a home for student transcripts of closed colleges. Fees from transcript requests that have not been spent for that purpose revert to the general fund. The increase in transcripts and requests in recent years is making it very difficult to handle manually, and the commission needs to retain money across years to explore and pay for an automated system. The amount involved is under \$10,000 per year. Because the intent is a dedicated fund, this bill was amended to create that fund. Vote 14-0.

**Amendment (0988h)**

Amend RSA 292:8-kk, II as inserted by section 1 of the bill by replacing it with the following:

***II. All transcript request fees collected by the postsecondary education commission under this section shall be deposited into a nonlapsing, revolving fund to be used for managing the storage, maintenance, and retrieval of closed school transcripts.***

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Subparagraph; State Treasurer and State Accounts; Application of Receipts. Amend RSA 6:12, I (b) by inserting after subparagraph 227 the following new subparagraph:

(228) Moneys received by the postsecondary education commission under RSA 292:8-kk, II.

**SUSPENSION OF RULES**

Rep. Hess moved that the Rules be so far suspended as to permit third reading and final passage at the present time of **SB 336**, relative to certain costs in the development of a high school in the town of Bedford.

Rep. Hess spoke in favor.

Adopted by the necessary two-thirds.

Rep. Hess moved that of **SB 336**, relative to certain costs in the development of a high school in the town of Bedford, be read a third time and passed.

Adopted.

**Third reading and final passage**

**SB 336**, relative to certain costs in the development of a high school in the town of Bedford.

**REGULAR CALENDAR**

**SB 457**, relative to animal population control. **OUGHT TO PASS**

Rep. James G. Phinizzy for Environment and Agriculture: The state spay/neuter fund is funded solely by a two dollar fee from dog licenses. Since its inception ten years ago, the program has proven to be highly successful, reducing the number of dogs euthanized in shelters and humane societies by over 75%. As a result of this successful reduction in dogs available from shelters, New Hamp-

shire has become a magnet for stray dogs from shelters in other states and certain Caribbean Islands. With the best of intentions, albeit misguided, New Hampshire based shelters and rescue agencies have imported dogs for adoption, and often these adopted dogs have used state spay/neuter funds intended for New Hampshire's dogs and cats. There remains a significant number of dogs and cats within New Hampshire that can benefit from the state spay/neuter fund. These funds are needed for New Hampshire animals. The bill prevents the use of state funds for dogs and cats that have been imported from other states by animal shelters or adoption agencies. Vote 13-2. Adopted and ordered to third reading.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Lawrence A. Emerton for Finance: This bill continues the current eligibility and benefit levels for the medical assistance program for home care for children with severe disabilities, popularly known as the Katie Beckett Program, for the remainder of the biennium. The bill establishes a diversified commission to consider the program's future and make recommendations to the legislature in time for action in the 2005 session. This bipartisan effort reflects the position of the commissioner of the Department of Health and Human Services that the legislature, and not the Department through rules, should determine the nature of this important program. The bill also sets up a mechanism, including a new position and a broadened definition of a health carrier, to obtain, wherever possible, reimbursement and/or payment from private insurers who bear primary liability for these children's services. Any insurance recoveries would reduce the cost of the program to the state. The bill appropriates a nominal \$2 for the position, as the commissioner is in the process of searching for non-general funds to cover its costs. Vote 21-0.

**Amendment (0899h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The general court recognizes the state's obligation to assist in the provision of services to children with severe disabilities and their families. The general court hereby declares that, under federal law, medicaid is the obligor of last resort for services in this state to children with severe disabilities, but that every effort should be made by the state to ensure payment or reimbursement for such services by liable third party insurers. Therefore, the state must dedicate appropriate resources to ensure that liable third party insurers fulfill their obligation to families with children with severe disabilities without delaying the provision of services in order to avoid increased medical expenses which may become the responsibility of the state.

2 New Section; Public Assistance to the Blind, Aged, or Disabled Persons, and to Dependent Children; Home Care for Children With Severe Disabilities. Amend RSA 167 by inserting after section 3-d the following new section:

167:3-e Home Care for Children With Severe Disabilities.

I. If a child is enrolled in the medical assistance program that provides home care for children with severe disabilities, the commissioner shall assist the child's parent or guardian to recover costs for medical care and services under any private health insurance available to the child.

II. The department of health and human services may acquire adaptive equipment and other specialized home health care assets for the purpose of loaning such equipment to participants in the medical assistance program that provides home care for children with severe disabilities. The department shall have authority to contract for the refurbishment of such equipment, to reissue equipment returned to the department, and to dispose of any equipment that is no longer useful.

3 Position Established; Funding. The department of health and human services shall establish a position of "program specialist III" to assist parents and guardians of children enrolled in the medical assistance program that provides home care for children with severe disabilities in recovering the costs of services from private health insurers. The commissioner of health and human services shall pursue all sources of funding, including the medicaid program, for the position of program specialist. In addition, the sum of \$1 for the fiscal year ending June 30, 2004 and the sum of \$1 for the fiscal year ending June 30, 2005 are hereby appropriated to the department of health and human services for the purpose of funding the program specialist position. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

4 Administrative Rules. The commissioner of health and human services shall adopt as interim rules under RSA 541-A the expired rules regulating home care for children with severe disabilities in He-W 508. The interim rules shall not contain changes, other than minor editorial changes, from the text of the expired rules. Notwithstanding any provision of RSA 541-A to the contrary, the interim rules adopted pursuant to this section shall not expire and shall not be amended by the commissioner until July 1, 2005.

5 Commission Established. There is established a commission to study the medical assistance program that provides home care for children with severe disabilities.

I. The members of the commission shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

(c) The commissioner of the department of health and human services, or designee.

(d) One representative of the Parent Information Center, appointed by that organization.

(e) One representative of a family participating in the medical assistance program for home care for children with severe disabilities appointed by the Council for Children and Adolescents with Chronic Health Conditions.

(f) One representative of The New Hampshire Pediatric Society, appointed by that organization.

(g) One service provider, appointed by the speaker of the house of representatives.

(h) Four public members, 2 of whom shall be appointed by the speaker of the house of representatives and 2 of whom shall be appointed by the senate president.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall review the current medical assistance program that provides home care for children with disabilities, including program eligibility criteria, service configurations, and the role of private health insurers in providing home care for children with severe disabilities. The commission shall also consider the effect of any proposed changes in the program on families, public schools, and public institutions.

IV. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Health Carrier Disclosure of Third Party Liability. Amend RSA 167:4-b to read as follows:

167:4-b Health Carrier Disclosure of Third Party Liability.

I. *In this section, "health carrier" means a health carrier as defined in RSA 420-G:2 and any entity that is a pharmacy benefit manager, third party administrator of health benefits, provider of health benefits under an ERISA plan, or provider of health benefits under a self-administered plan.* Each health carrier~~[as defined in RSA 420-G:2,]~~ shall electronically cross-match claims data, policyholder, and subscriber information with the department of health and human services to provide health insurance coverage information, for third party liability purposes, regarding medical assistance recipients and applicants for medical assistance under RSA 167 in accordance with rules adopted by the commissioner of health and human services pursuant to RSA 167:3-c.

II. Such electronic cross-match shall be made by any health carrier upon certification by the department of health and human services that all persons identified on the electronic medium are applicants for or recipients of medical assistance for which the department seeks payment or reimbursement through third party liability. *A health carrier shall limit the transfer of electronic cross-match information required under this section to a list of medical assistance recipients and applicants for medical assistance under RSA 167 provided to the health carrier by the department of health and human services.*

III. Any health carrier who supplies information in accordance with this section and with rules adopted under RSA 167:3-c shall have immunity from any civil or criminal liability that might otherwise be imposed or incurred.

*IV. Each health carrier shall provide to the department of health and human services upon request such information in the health carrier's possession as the department determines necessary to assist in identifying third party liability for payments made by the state for services to medical assistance recipients.*

7 New Paragraph; Financial Disclosure by Applicants and Recipients; Liability and Reimbursement by Health Carriers. Amend RSA 167:4-a by inserting after paragraph III the following new paragraph:

IV. Each health carrier, as defined in RSA 167:4-b, I, against which the department of health and human services seeks payment or reimbursement through third party liability for services provided to medical assistance recipients shall be liable for such payment or reimbursement, provided that the claim for payment or reimbursement by the department is made within 5 years following the date of service.

8 Effective Date.

I. Sections 6 and 7 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill:

I. Establishes a position in the department of health and human services to assist recipients of home care for children with severe disabilities in obtaining reimbursement or payment from private insurers whenever possible, and appropriates \$1 in each year of the biennium to fund the position.

II. Authorizes the department to loan specialized equipment to recipients of home care for children with severe disabilities.

III. Directs the department to adopt the expired rules regulating home care for children with severe disabilities as interim rules and provides that such rules shall remain in effect until July 1, 2005.

IV. Establishes a commission to study the medical assistance program.

V. Expands the definition of health carrier for purposes of disclosing insurance information to the department of health and human services for medicaid reimbursement.

VI. Permits the department to seek reimbursement or payment from a health carrier for a medical assistance recipient if the claim is made within 5 years of the service.

Adopted.

Report adopted and ordered to third reading.

**SB 383-FN**, relative to pharmacy benefit management. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. James R. MacKay for the Majority of Health, Human Services and Elderly Affairs: This bill expands the Preferred Drug List established under HB4-2003 to include psychotropic medications used to treat individuals who suffer with severe psychiatric disorders including schizophrenia, bipolar illnesses, and severe depression. Fifty to sixty years ago, there was no need for such a Preferred Drug List since the anti-psychotic medications did not exist. Those were the days when state mental hospitals were crowded with seriously ill patients who were treated with what today we would consider barbaric conditions. Insulin and electric shock therapy were common, as was the use of restraints and cold baths. Many spent the rest of their lives at the state hospital after they were first committed. Half way through the last century, new psychotropic medication discoveries dramatically changed the treatment of the mentally ill leading to a shift from hospital care to community care. In recent years, there has been increasingly significant research as to the biological basis of severe mental illness particularly in the fields of genetics and biochemistry. The psychotropic medications of the fifties have been superseded by newer, more sophisticated medications that are more effective and have fewer side effects. Now there are a variety of medications available and new medications are being added. Insurance companies for some years have used PDL's routinely; often those insured are unaware of their existence. This bill provides for the inclusion of anti-psychotic medications in the PDL authorized in HB 4 of 2003. The committee felt strongly that this could be accomplished only if specific patient care protections are built into law. Therefore, the committee amended SB 383-FN by replacing it with the provisions of HB-4 and then added the patient protection section. This amended bill includes a grandfather clause that allows individuals who are taking a specific psychotropic medication to continue with that medi-

cation even if it is not on the PDL. In addition, prior authorization is required but this bill provides for an exception allowing a physician to make the decision as to what medication is most appropriate for the patient and provides a series of criteria to be utilized in making that decision. HB 4, 2003 provided for a pharmacy and therapeutics advisory committee that advises DHHS on the medications to be placed on the PDL including medications for seriously mentally ill. This bill adds an advanced registered nurse practitioner to the committee along with the physicians and pharmacists already serving. In addition, as a safeguard, HB 4, 2003 provided for legislative oversight of the Medicaid prescription drug benefits. This committee is now in effect. In addition, this amendment provides for two more patient protections. Many physicians prescribing antipsychotic medications are not psychiatrists. There is a requirement that DHHS develop mechanisms to educate and assist primary care physicians in the efficiency and cost effective use of psychotropic medications. Secondly, it is recognized that seriously mentally ill individuals often need help in dealing with bureaucratic systems. Therefore, it is required that the DHHS provide pharmacists with the telephone number of a departmental ombudsmen who will provide assistance to assure that the proper medication is dispensed. This bill is supported by Stephen Bartels, MD, Medical Director of the NH Division of Behavioral Health, a Board Certified Psychiatrist who participated in the recent President's Commission on Mental Health and William Kassler, MD, the Medical Director of the Department of Health and Human Services. The majority of the committee agreed that significant protections have been placed in this bill which will protect the doctor-patient relationship and provide the most appropriate care for the seriously mentally ill. The bottom line of this bill is that the physician directs the health care of his or her patients. Vote 13-8

Rep. Fran Wendelboe for the Minority of Health, Human Services and Elderly Affairs: The executive session debate on SB 383 in committee lasted for three hours and was an emotionally charged and complex debate. Right now under current law, there is a preferred drug list (PDL) that was part of HB 4, 2003. This has yet to be implemented. In last year's budget consideration, the House Finance Committee did not believe the claimed savings made by the department and was concerned with the additional unintended costs of restricting access to drugs. The Senate chose to include a PDL but specifically put protections in to exempt a narrow category of mental health drugs which treat the most severe mental health illnesses; schizophrenia, bi-polar disorder, and severe depression. The House agreed with this position. The minority of this committee believes that until the original PDL is fully implemented and the cost savings measured we should not put at risk the most fragile citizens of our Medicaid population by restricting their access to the most appropriate drugs. While many on the committee believe that the amendment the house committee adopted lessens the consequences, it still puts NH in a position of being the only state in the nation to restrict all categories of mental health drugs. Under the amendment, a physician would still be subject to having to defend his decision that a severely mentally ill patient needs a particular drug treatment. While many of us with private insurance are subject to PDLs, there is a major difference. Private plans do not REFUSE you a drug your physician feels is the appropriate treatment; they just may require you to pay a larger co-pay. Medicaid recipients cannot by federal law be charged any more than a nominal co-pay and then only if they can afford it. Altering the treatment regimen for a patient with mental illness, including mandated medication switches, can destabilize them, undoing months or possibly years of progress and putting the patient and others in the community at unnecessary risk. A mental health patient who deteriorates to the level of institutionalization in the prison or NH Hospital is far more costly than the new drugs with fewer side effects would ever cost. NH Hospital costs approximately \$300,000 a year and the Psychiatric Unit at the Prison \$50,000 a year. The Department of HHS could not cite any savings with no unintended consequences that any other state has done. They could not give us a number of what kind of savings they would anticipate other than a vague several million dollars. There was not one single medical doctor who testified for this bill or amendment who was not somehow employed or attached to the state. The above points are just a very few of the many concerns and unanswered questions the minority had on this bill. The minority also believed that interim study would have been an appropriate alternative.

#### **Majority Amendment (1030h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Health and Human Services; Medicaid Pharmacy Benefits Management Program. Amend 2002; 281:9 as amended by 2003, 319:176 to read as follows:

281:9 Department of Health and Human Services; Medicaid Pharmacy Benefits Management Program.

I. The commissioner, in order to manage plan benefits under Medicaid, shall adopt rules under RSA 541-A, relative to a pharmacy benefits management program which may include provisions for:

(a) A medical pharmacy lock-in program to prevent recipients from obtaining excessive quantities of, or from inappropriately using, prescription drugs through multiple pharmacies; and

(b) A prior authorization process in which a prescriber seeks approval by the department, through its designated agent, to make payment for drugs which are considered to have a high potential for misuse or abuse, are high cost, or should be monitored for correct adherence to clinical protocols.

II. The commissioner may place a drug on a preferred drug list, provided that the decision to place the drug on a preferred drug list has been ratified in writing by a physician who is board certified in the specialty that most commonly treats the disease or prescribes the relevant therapeutic class of drugs. The physician shall not be employed by, nor have any financial relationship with, any pharmacy benefits management company managing Medicaid prescription benefits, nor be a member of the pharmacy and therapeutics committee established in paragraph VI. Such written ratification shall be submitted to the commissioner, members of the pharmacy and therapeutics committee, established in paragraph VI, and the legislative oversight committee, established in subparagraph VII(b), and shall be available to the public upon request.

III. Notwithstanding the provisions of paragraph II, the commissioner shall not limit or exclude coverage for a *non-preferred* drug which has been previously approved and prescribed for the treatment of an enrollee's medical condition, provided that such drug has been determined to be safe and effective for the treatment of such medical condition *and provided that the enrollee's physician has determined that it is medically necessary that the enrollee continue to receive the previously prescribed drug.*

IV. Notwithstanding the provisions of paragraph II, the commissioner [~~shall not require prior authorization or impose any other restriction on medications used to treat severe mental illnesses including schizophrenia, severe depression, and bipolar disorder~~] *may require prior authorization for medications to treat severe mental illnesses including schizophrenia, severe depression, and bipolar disorder for enrollees who are currently being treated for such severe mental illness with a non-preferred drug which has previously been prescribed only if, after a transition period not to exceed 6 months, the enrollee's physician has determined that a preferred drug provides the same level of treatment for the patient's mental illness as the previously prescribed non-preferred drug.*

*IV-a. The enrollee's physician shall base the determination made under paragraphs III and IV that an enrollee shall continue to be treated with a non-preferred drug on at least one of the following criteria:*

*(a) Allergy to all medications within the same class on the preferred drug list;*

*(b) Contraindication to or drug-to-drug interaction with all medications within the same class on the preferred drug list;*

*(c) History of unacceptable or toxic side effects to all medications within the same class on the preferred drug list;*

*(d) Therapeutic failure of all medications within the same class on the preferred drug list;*

*(e) An indication that is unique to a non-preferred drug and is supported by peer-reviewed literature or a unique federal Food and Drug Administration-approved indication;*

*(f) Age specific indication;*

*(g) Medical co-morbidity or other medical complication that precludes the use of a preferred drug; or*

*(h) Clinically unacceptable risk with a change in therapy to preferred drug.*

V. If the commissioner determines that the department does not have sufficient qualified personnel to self-administer a preferred drug list establish under paragraph II, he or she may contract with a vendor to provide assistance to implement a preferred drug list provided that payment for those services shall be contingent upon demonstrated reductions in usage of Medicaid prescription benefits.

VI. A pharmacy and therapeutics advisory committee shall be established to advise the department on the operation of the Medicaid pharmacy benefits management program, including the medications subject to prior authorization, the criteria for approving prior authorization including



consideration of medical necessity, and the criteria for a pharmacy lock-in program designed to prevent recipients from obtaining excessive quantities of, or from inappropriately using, prescription drugs through multiple pharmacies.

(a) The committee shall include:

(1) The medical director of the department.

(2) Five persons appointed by the commissioner.

(3) Four physicians appointed by the New Hampshire Medical Society, who shall be from the following specialties:

(A) Internal medicine.

(B) Pediatrics.

(C) Family practice.

(D) Psychiatry.

(4) Two pharmacists, one of whom shall be a Pharm.D, appointed by the New Hampshire ~~[Pharmacists Association]~~ *pharmacy board*.

*(5) An advanced registered nurse practitioner (A.R.N.P.) with a specialty in mental health, appointed by the New Hampshire board of nursing.*

(b) In determining which medications shall be subject to prior authorization and in establishing the criteria for approving prior authorization or any changes thereto, the committee shall hold a public hearing to be scheduled at a time and place chosen to afford opportunity for the public to present its views. The committee shall give public notice of any hearing at least 30 days in advance of the hearing. Public notice shall include a public notice advertisement in a publication of daily statewide circulation.

VII.(a) The commissioner of health and human services shall report quarterly to the legislative oversight committee established in subparagraph (b) with respect to the Medicaid prescription drug benefits management program, including:

(1) The cost savings to the state realized from the operation of a pharmacy benefits management program. To the extent possible, the savings shall be allocated to each pharmacy benefits management initiative.

(2) The direct costs of a pharmacy benefits management program including costs associated with any pharmacy benefits management contract. To the extent possible, the savings shall be allocated to each pharmacy benefits management initiative.

(3) An analysis of any cost shifting associated with the implementation of each pharmacy benefits management initiative including additional prescriptions, hospital admissions, psychiatric hospital admissions, emergency room visits, long-term care admissions, physician visits, laboratory tests, skilled nursing care, and the underlying data to support such analysis.

(4) A report on the volume of claims paid for preferred versus non-preferred drugs, prior authorizations as a percentage of total claims, average call waiting time, and any issues that the state's pharmacy benefits administrator is required to comply with under the terms of the pharmacy benefits management contract.

(5) A report of the effectiveness of the department of health and human services' pharmacy lock-in program.

(6) An analysis of the impact of the pharmacy benefits management program on patient outcomes and quality of care.

(7) Recommendations for other opportunities to improve the management of pharmacy services or to expand pharmacy benefits to additional populations.

(b) For the purpose of legislative oversight of the Medicaid prescription drug benefits management program administered by the department, including a preferred drug list which may be established pursuant to paragraph II, there is established a legislative oversight committee consisting of 3 members of the house of representatives appointed by the speaker and 3 senators appointed by the senate president. The committee shall meet as needed and shall elect a chairperson from among the members. The committee shall review the reports of the commissioner under subparagraph (a) and may request additional information as needed. The department shall provide to the oversight committee a report of actions taken by the pharmacy and therapeutics committee since the last meeting of the oversight committee, including a list of any medications made subject to prior authorization, the criteria for approving such prior authorization, and minutes of the pharmacy and therapeutics committee meetings. The oversight committee may request the assistance of the legislative budget assistant in auditing the program and in reviewing its performance

and effectiveness. The committee may make recommendations for proposed legislation, and shall report any findings or recommendations, including the commissioner's report under subparagraph (a), to the speaker of the house, the president of the senate, the governor, and the chairperson of the joint legislative committee on administrative rules by January 1 of each year.

VIII. The commissioner of the department of health and human services shall conduct an independent audit not less than once per biennium of the premises, operations, and data from any entity providing pharmacy benefits management services to the state. The results of such audit shall be reported to the legislative fiscal committee, established in RSA 14:30-a, and members of the legislative oversight committee, established in subparagraph VII(b), and shall be made available to the public upon request.

*IX.(a) The commissioner, or designee, may negotiate with pharmaceutical companies for the payment to the department of supplemental rebates or price discounts for Medicaid in addition to those required by Title XIX of the Social Security Act.*

*(b) The commissioner, or designee, may negotiate supplemental rebates, price discounts, and other mechanisms to reduce net prescription drug costs by means of any negotiation strategy which the commissioner determines will result in the maximum economic benefit to the program while maintaining access to high quality prescription drug therapies. The provisions of this subparagraph shall not authorize agreements with pharmaceutical manufacturers whereby financial support for medical and disease management services is accepted in lieu of cash supplemental rebate payments as consideration for placement of one or more drugs on the preferred drug list.*

*(c) The commissioner and the department shall prohibit the public disclosure of information revealing company-identifiable trade secrets, including rebate and supplemental rebate amounts and manufacturer's pricing, obtained by the department in the course of negotiations conducted pursuant to this paragraph.*

*X. The commissioner shall:*

*(a) Develop mechanisms to educate and assist primary care physicians in efficacy and cost-effective practices for psychotropic medications; and*

*(b) A procedure to provide pharmacists with information concerning the availability of an ombudsman for seriously mentally ill persons who need assistance in obtaining medications.*

2 Effective Date. This act shall take effect 60 days after its passage.

## AMENDED ANALYSIS

This bill clarifies certain provisions of the pharmacy benefits management program, including procedures for requiring prior authorization for certain medications to treat severe mental illnesses. This bill adds a member to the pharmacy and therapeutics advisory committee. This bill also allows the commissioner of the department of health and human services to negotiate supplemental rebates, price discounts, and other mechanisms to reduce prescription drug costs.

Reps. Joseph Manning, Miller and Bleyer spoke against.

Rep. MacKay spoke in favor and yielded to questions.

Rep. Wendelboe spoke against and yielded to questions.

Reps. Dalrymple, Pilliod and Batula spoke in favor.

Rep. MacKay requested a roll call; sufficiently seconded.

The question being adoption of the majority amendment.

## YEAS 200 NAYS 163

### YEAS 200 BELKNAP

Allen, Janet  
Dewhirst, Glenn  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Holbrook, Robert  
Rice, Thomas

Clark, Charles  
Lawton, David  
Russell, David

### CARROLL

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

**CHESHIRE**

Dexter, Judson  
Liebl, George

Fish, Douglas  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

**COOS**

Brady, Mark  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

Richardson, Herbert  
Woodward, David

Stohl, Eric

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Ingbretson, Paul

Barker, Robert  
Gilman, G Michael  
Maybeck, Margie

Dorsett, Andrew  
Gionet, Edmond  
Naro, Debra

Dudley, Terri  
Giuda, Robert

**HILLSBOROUGH**

Adams, Jarvis  
Balcom, John  
Bergeron, Jean-Guy  
Cail, Kenneth  
Chabot, Robert  
Crane, Elenore Casey  
Fletcher, Richard  
Greenberg, Gary  
Haytayan, Harry Jr  
Kurk, Neal  
Lessard, Rudy  
Mercer, Robert  
Ober, Russell III  
Reeves, Sandra  
Stepanek, Stephen  
Vaillancourt, Steve

Allan, Nelson  
Barry, J Gail  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Drisko, Richard  
Gargas, Carolyn  
Hall, Charles  
Hinkle, Peyton  
L'Heureux, Robert  
Luebker, Bernard  
Mooney, Maureen  
Pappas, Marc  
Ross, Lawrence  
Sullivan, Peter  
Wheeler, James

Arnold, Thomas Jr  
Batula, Peter  
Bruno, Pierre  
Carter, Mark  
Christiansen, Lars  
Emerton, Larry  
Gonzalez, Carlos  
Hallyburton, Margaret  
Hunter, Bruce  
LaFlamme, Paul  
McElroy, Henry Jr  
Moran, Edward  
Pepino, Leo  
Rowe, Robert  
Tahir, Saghir  
Wheeler, Robert

Artz, Lawrence  
Beaton, William  
Buhlman, David  
Cernota, Albert  
Coughlin, Pamela  
Fields, Dennis  
Graham, John  
Harrington, Paul  
Infantine, William  
Lawrence, James  
McHugh, Claire  
Mosher, William  
Price, Pamela  
Stocum, Lee  
Tate, Joan

**MERRIMACK**

Anderson, Eric  
Field, William  
Kenison, Leon  
Leber, William  
Maxfield, Roy  
Reed, Dennis

Currier, David  
Foley, Albert  
Kennedy, Richard  
Lockwood, Priscilla  
McCormick, Tom

Daniels, Eric  
Fraser, Leo Jr  
L'Heureux, Stephen  
MacKay, James  
Nutter, Edward

Dunne, Christopher  
Hess, David  
Langer, Ray  
Marple, Richard  
Oliver, James

**ROCKINGHAM**

Belanger, Ronald  
Camm, Kevin  
Dowd, John  
Flanders, John Sr  
Hamel, Albert  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
McMahon, Charles  
Putnam, Ed II  
Ruffner, Walter  
Tufts, J Arthur  
Weldy, Norman Jr

Bishop, Franklin  
Carson, Sharon  
Doyle, Christopher  
Gilbert, Jeffrey  
Headd, James  
Introne, Robert  
Kobel, Rudolph  
Manning, John  
Noyes, Richard  
Quandt, Matthew  
Smith, Donald  
Waterhouse, Kevin  
Wiley, Robert

Bridle, Russell  
Dalrymple, Janeen  
Duffy, James  
Gilbert, Karl  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
McCann, Richard  
Packard, Sherman  
Rausch, James  
Smith, Paul  
Weare, E Albert  
Winchell, George

Cady, Harriet  
Dodge, Robert  
Dumaine, Dudley  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Letourneau, Robert  
McKinney, Betsy  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Welch, David  
Zolla, William

**STRAFFORD**

Albert, Russell  
Easson, Timothy  
Scott, David

Bemis, Alan  
Harrington, Michael  
Twombly, James

Bickford, David  
Musler, George  
Woods, Phyllis

Cataldo, Sam  
Newton, Clifford

**SULLIVAN**

Jones, Constance

Rodeschin, Beverly

**NAYS 163**

**BELKNAP**

Ahern, Omer Jr

Laffam, Robert

Wendelboe, Fran

**CARROLL**

Hatch, Paul

**CHESHIRE**

Allen, Peter

Dunn, James

Eaton, Daniel

Espiefs, Peter

Manning, Joseph

Meader, David

Mitchell, McKim

Parkhurst, Henry

Pratt, Irene

Pratt, John

Richardson, Barbara

Tilton, Anna

Webber, Amy

Weed, Charles

**COOS**

Guay, Lawrence

King, Frederick

Mears, Edgar

Poulin, Richard

**GRAFTON**

Akins, Ralph

Almy, Susan

Benn, Bernard

Bleyler, Ruth

Cooney, Mary

Densmore, Edward

Diamond, Estelle

Ham, Bonnie

Hammond, Lee

Nordgren, Sharon

Scovner, Nancy

Sokol, Hilda

Solomon, Peter

Sorg, Gregory

**HILLSBOROUGH**

Balboni, Michael

Baroody, Benjamin

Bergin, Peter

Brassard, Paul

Buckley, Raymond

Carlson, Donald

Clayton, William

Clemons, Jane

Cote, David

Cote, Peter

Craig, James

Dionne, Kimberley

Dokmo, Cynthia

Elliott, Larry

Ford, Nancy

Gibson, John

Gorman, Mary

Goyette, Peter Jr

Hagan, Barbara

Haley, Robert

Hansen, Ryan

Hawkins, Ken

Holden, Randolph

Hopper, Gary

Irwin, Anne-Marie

Jasper, Shawn

Jean, Claudette

Johnson, Lionel

Katsiantonis, Thomas

Kopka, Angeline

Lasky, Bette

Leach, Edward

Malloy, Chris

McRae, Karen

Messier, Irene

Michon, Stephen

Movsesian, Lori

O'Brien, Lori

Palangas, Eric

Pappas, Christopher

Pilotte, Maurice

Scanlon, Michael

Schulze, Joan

Shaw, Barbara

Souza, Kathleen

Spiess, Paul

Sullivan, Francis

Sweeney, Cynthia

**MERRIMACK**

Blanchard, Elizabeth

Bouchard, Candace

Brueggemann, Donald

Clarke, Claire

Davis, Frank

DeJoie, John

DeStefano, Stephen

French, Barbara

Gile, Mary

Hager, Elizabeth

Hamm, Christine

Jacobson, Alf

Osborne, Jessie

Owen, Derek

Perkins, Randy

Potter, Frances

Rodd, Beth

Rush, Deanna

Seldin, Gloria

Soltani, Tony

Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis

Allen, Mary

Blanchard, MaryAnn

Casey, Kimberley

Clark, Vivian

Coes, Betsy

Cooney, Richard

Corbin, Corey

DiFruscia, Anthony

Fesh, Bob

Gillick, Thomas

Gould, Kenneth

Hutchinson, Karen

Itse, Daniel

Johnson, Robert

Kelley, Jane

Langley, Jane

McEachern, Paul

Morris, Richard

Norelli, Terie

O'Neil, Michael

Pantelakos, Laura

Pitts, Jacqueline

Robertson, Carl

Scamman, Stella

Shultis, Elizabeth

Splaine, James

Varrell, Thomas

Weyler, Kenneth

**STRAFFORD**

Berube, Roger  
Grassie, Anne  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie

Callaghan, Frank  
Heon, Richard  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Taylor, Kathleen

Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Wall, Janet

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Phinizy, James

Burling, Peter  
Flint, Gordon Sr

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Leone, Richard

and the majority amendment was adopted.

Rep. Wendelboe offered a floor amendment (1215h).

**Floor Amendment (1215h)**

Amend paragraphs IV and IV-a of section 1 of the bill by replacing them with the following:

**IV.** Notwithstanding the provisions of paragraph II, the commissioner ~~[shall not require prior authorization or impose any other restriction on medications used to treat severe mental illnesses including schizophrenia, severe depression, and bipolar disorder]~~ *may require prior authorization for medications to treat severe mental illnesses including schizophrenia, severe depression, and bipolar disorder for enrollees who are being treated for such severe mental illness with a non-preferred drug only if, after a transition period not to exceed 6 months, the enrollee's physician has determined that the enrollee should continue to be treated with the non-preferred drug.*

**IV-a.** *The enrollee's physician shall base the determination made under paragraphs III and IV that an enrollee shall continue to be treated, or, if newly diagnosed, may be treated with a non-preferred drug on any one of the following criteria:*

*(a) Allergy to all medications within the same class on the preferred drug list;*

*(b) Contraindication to or drug-to-drug interaction with all medications within the same class on the preferred drug list;*

*(c) History of unacceptable or toxic side effects to all medications within the same class on the preferred drug list;*

*(d) Therapeutic failure of all medications within the same class on the preferred drug list;*

*(e) An indication that is unique to a non-preferred drug and is supported by peer-reviewed literature or a unique federal Food and Drug Administration-approved indication;*

*(f) Age specific indication;*

*(g) Medical co-morbidity or other medical complication that precludes the use of a preffered drug; or*

*(h) Clinically unacceptable risk with a change in therapy to preferred drug. Selection by the physician of the criteria under this subparagraph shall require an automatic approval by the pharmacy benefit program.*

Rep. Wendelboe spoke in favor.

Rep. Batula requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (1215h).

**YEAS 262 NAYS 99****YEAS 262****BELKNAP**

Ahern, Omer Jr  
Holbrook, Robert  
Wendelboe, Fran

Bartlett, Gordon  
Laflam, Robert  
Whalley, Michael

Boyce, Laurie  
Lawton, David

Flanders, Donald  
Rice, Thomas

**CARROLL**

Babson, David Jr  
Kenney, Bettie

Brown, Carolyn  
Morrow, Harry

Dickinson, Howard  
Olimpio, J Lisbeth

Hatch, Paul  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Fish, Douglas  
Mitchell, McKim  
Richardson, Barbara

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Tilton, Anna

Eaton, Daniel  
Manning, Joseph  
Pratt, Irene  
Webber, Amy

Espiefs, Peter  
Meador, David  
Pratt, John  
Weed, Charles

**COOS**

Brady, Mark  
Poulin, Richard

Guay, Lawrence  
Richardson, Herbert

King, Frederick  
Theberge, Robert

Mears, Edgar

**GRAFTON**

Akins, Ralph  
Bleyler, Ruth  
Gilman, G Michael  
Hammond, Lee  
Scovner, Nancy

Alger, John  
Cooney, Mary  
Gionet, Edmond  
Ingbertson, Paul  
Sokol, Hilda

Almy, Susan  
Densmore, Edward  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Ham, Bonnie  
Nordgren, Sharon  
Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis  
Balboni, Michael  
Bergin, Peter  
Carlson, Donald  
Christiansen, Lars  
Cote, Peter  
Dokmo, Cynthia  
Fletcher, Richard  
Gonzalez, Carlos  
Hagan, Barbara  
Hansen, Ryan  
Hinkle, Peyton  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
Lasky, Bette  
McElroy, Henry Jr  
Moran, Edward  
Pappas, Christopher  
Reeves, Sandra  
Shaw, Barbara  
Stepanek, Stephen  
Vaillancourt, Steve

Allan, Nelson  
Balcom, John  
Brassard, Paul  
Carter, Jeffrey  
Clayton, William  
Craig, James  
Drisko, Richard  
Ford, Nancy  
Gorman, Mary  
Haley, Robert  
Harrington, Paul  
Holden, Randolph  
Jasper, Shawn  
Kopka, Angeline  
Leach, Edward  
McRae, Karen  
Movsesian, Lori  
Pappas, Marc  
Ross, Lawrence  
Slocum, Lee  
Sullivan, Francis  
Wheeler, James

Arnold, Thomas Jr  
Baroody, Benjamin  
Bruno, Pierre  
Carter, Mark  
Clemons, Jane  
Crane, Elenore Casey  
Elliott, Larry  
Gargas, Carolyn  
Goyette, Peter Jr  
Hall, Charles  
Hawkins, Ken  
Hopper, Gary  
Jean, Claudette  
L'Heureux, Robert  
Luebker, Bernard  
Mercer, Robert  
O'Brien, Lori  
Pilote, Maurice  
Scanlon, Michael  
Souza, Kathleen  
Sweeney, Cynthia

Artz, Lawrence  
Bergeron, Jean-Guy  
Buckley, Raymond  
Chabot, Robert  
Cote, David  
Dionne, Kimberley  
Emerton, Larry  
Gibson, John  
Graham, John  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Infantine, William  
Johnson, Lionel  
LaFlamme, Paul  
Malloy, Chris  
Messier, Irene  
Palangas, Eric  
Price, Pamela  
Schulze, Joan  
Spiess, Paul  
Tate, Joan

**MERRIMACK**

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
French, Barbara  
Hess, David  
MacKay, James  
Owen, Derek  
Rush, Deanna

Bouchard, Candace  
Daniels, Eric  
Dunne, Christopher  
Gile, Mary  
Kenison, Leon  
McCormick, Tom  
Perkins, Randy  
Seldin, Gloria

Brueggemann, Donald  
Davis, Frank  
Field, William  
Hager, Elizabeth  
Langer, Ray  
Nutter, Edward  
Reed, Dennis  
Soltani, Tony

Clarke, Claire  
DeJoie, John  
Foley, Albert  
Hamm, Christine  
Lockwood, Priscilla  
Osborne, Jessie  
Rodd, Beth  
Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis  
Camm, Kevin  
Cooney, Richard  
Dumaine, Dudley  
Gould, Kenneth

Allen, Mary  
Casey, Kimberley  
DiFruscia, Anthony  
Fesh, Bob  
Griffin, Mary

Blanchard, MaryAnn  
Clark, Vivian  
Dodge, Robert  
Gilbert, Jeffrey  
Hamel, Albert

Cady, Harriet  
Coes, Betsy  
Duffy, James  
Gillick, Thomas  
Headd, James

Holland, James Jr  
Itse, Daniel  
Kobel, Rudolph  
Morris, Richard  
Pantelakos, Laura  
Robertson, Carl  
Smith, Paul  
Winchell, George

Hughes, Daniel  
Johnson, Robert  
Langley, Jane  
Norelli, Terie  
Pitts, Jacqueline  
Ruffner, Walter  
Splaine, James

Hutchinson, Karen  
Johnson, Rogers  
Langone, John  
Noyes, Richard  
Quandt, Matthew  
Scamman, Stella  
Varrell, Thomas

Introne, Robert  
Kelley, Jane  
McEachern, Paul  
O'Neil, Michael  
Rausch, James  
Shultis, Elizabeth  
Weyler, Kenneth

### STRAFFORD

Bemis, Alan  
Dunlap, Patricia  
Heon, Richard  
Knowles, William  
Rous, Emma  
Taylor, Kathleen

Berube, Roger  
Easson, Timothy  
Hofemann, Roland  
Miller, Joseph  
Schmidt, Peter  
Wall, Janet

Callaghan, Frank  
Grassie, Anne  
Johnson, Nancy  
Pelletier, Arthur  
Smith, Marjorie  
Woods, Phyllis

Creteau, Irene  
Harrington, Michael  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter  
Rodeschin, Beverly

Donovan, Thomas  
Jones, Constance

### NAYS 99

### BELKNAP

Allen, Janet  
Pilliod, James

Clark, Charles  
Russell, David

Dewhirst, Glenn  
Thomas, John

Neddeau, Stephen

### CARROLL

Derby, Mark  
Stevens, Stanley

McConkey, Mark

Mock, Henry

Patten, Betsey

### CHESHIRE

Dexter, Judson  
Smith, Edwin

Hunt, John

Laurent, John

Royce, H Charles

### COOS

Pratt, Leighton

Stohl, Eric

Tholl, John Jr

Woodward, David

### GRAFTON

Barker, Robert  
Maybeck, Margie

Dorsett, Andrew

Dudley, Terri

Eaton, Stephanie

### HILLSBOROUGH

Barry, J Gail  
Buhlman, David  
Coughlin, Pamela  
Kurk, Neal  
Mooney, Maureen  
Rowe, Robert

Batula, Peter  
Cail, Kenneth  
Fields, Dennis  
Lawrence, James  
Mosher, William  
Sullivan, Peter

Beaton, William  
Cernota, Albert  
Greenberg, Gary  
McHugh, Claire  
Ober, Russell III  
Tahir, Saghir

Brundige, Robert  
Christensen, D L Chris  
Hunter, Bruce  
Michon, Stephen  
Pepino, Leo  
Wheeler, Robert

### MERRIMACK

Anderson, Eric  
L'Heureux, Stephen  
Oliver, James

Fraser, Leo Jr  
Leber, William  
Potter, Frances

Jacobson, Alf  
Marple, Richard

Kennedy, Richard  
Maxfield, Roy

### ROCKINGHAM

Belanger, Ronald  
Corbin, Corey  
Flanders, John Sr  
Katsakiores, Phyllis

Bishop, Franklin  
Dalrymple, Janeen  
Gilbert, Karl  
Letourneau, Robert

Bridle, Russell  
Dowd, John  
Ingram, Russell  
Major, Norman

Carson, Sharon  
Doyle, Christopher  
Katsakiores, George  
Manning, John

McCann, Richard  
Priestley, Anne  
Stone, Joseph  
Welch, David

McKinney, Betsy  
Putnam, Ed II  
Tufts, J Arthur  
Weldy, Norman Jr

McMahon, Charles  
Roessner, Kurt  
Waterhouse, Kevin  
Wiley, Robert

Packard, Sherman  
Smith, Donald  
Weare, E Albert  
Zolla, William

### STRAFFORD

Albert, Russell  
Newton, Clifford

Bickford, David  
Scott, David

Cataldo, Sam  
Twombly, James

Musler, George

### SULLIVAN

None

and floor amendment (1215h) was adopted.

Rep. Dudley voted nay and intended to vote yea.

Majority committee report adopted.

The House recessed at 12:35 p.m.

### RECESS

### (Speaker Chandler in the Chair)

The House reconvened at 1:55 p.m.

### PRAYER

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church for the family of Rep. Packy Campbell.

Good afternoon. I ask your prayers this afternoon for Ian Joseph Campbell, the son of Rep. Packy Campbell, 22 months old, who died tragically in an accident yesterday. Let us pray.

O Lord, our hearts are heavy, our breath is still, words fail us. Yet we trust in Your grace that at this sad time. You have received Ian into Your strong embrace and that You will be present to Ian's mother and father and family in ways that exceed our prayers. Enable each of us to reach out to Packy and his family so that they may know of our love and our deepest sympathy. Amen.

### REGULAR CALENDAR (CONT'D.)

#### MOTION FOR REFERRAL

Rep. Marjorie Smith moved that as permitted in House Rule 4, the House order **SB 383**, relative to pharmacy benefit management, be referred to the committee on Finance and spoke in favor.

Reps. Stone and Wheeler spoke against and yielded to questions.

Rep. Vaillancourt spoke in favor.

Rep. Whalley requested a roll call; sufficiently seconded.

The question being adoption of motion to refer SB 383 to Finance.

### YEAS 150 NAYS 197

#### YEAS 150

#### BELKNAP

Laflam, Robert

Wendelboe, Fran

#### CARROLL

Kenney, Bettie

#### CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Weed, Charles

Dunn, James  
Meader, David  
Richardson, Barbara

Eaton, Daniel  
Mitchell, McKim  
Tilton, Anna

Espiefs, Peter  
Parkhurst, Henry  
Webber, Amy

#### COOS

Poulin, Richard

Theberge, Robert



**GRAFTON**

Akins, Ralph  
Cooney, Mary  
Hammond, Lee  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Ham, Bonnie  
Sokol, Hilda

**HILLSBOROUGH**

Balboni, Michael  
Bruno, Pierre  
Cote, David  
Ford, Nancy  
Hagan, Barbara  
Hawkins, Ken  
Irwin, Anne-Marie  
Kopka, Angeline  
McHugh, Claire  
Movsesian, Lori  
Pilotte, Maurice  
Shaw, Barbara  
Sweeney, Cynthia

Baroody, Benjamin  
Buckley, Raymond  
Cote, Peter  
Gibson, John  
Haley, Robert  
Hinkle, Peyton  
Jean, Claudette  
Lasky, Bette  
McRae, Karen  
O'Brien, Lori  
Ross, Lawrence  
Souza, Kathleen  
Vaillancourt, Steve

Bergin, Peter  
Clayton, William  
Craig, James  
Gorman, Mary  
Hallyburton, Margaret  
Holden, Randolph  
Johnson, Lionel  
Leach, Edward  
Messier, Irene  
Palangas, Eric  
Scanlon, Michael  
Sullivan, Francis

Brassard, Paul  
Clemons, Jane  
Dionne, Kimberley  
Goyette, Peter Jr  
Hansen, Ryan  
Hopper, Gary  
Katsiantonis, Thomas  
Malloy, Chris  
Michon, Stephen  
Pappas, Christopher  
Schulze, Joan  
Sullivan, Peter

**MERRIMACK**

Blanchard, Elizabeth  
Davis, Frank  
Gile, Mary  
Osborne, Jessie  
Rodd, Beth  
Wallner, Mary Jane

Bouchard, Candace  
DeJoie, John  
Hager, Elizabeth  
Owen, Derek  
Rush, Deanna

Brueggemann, Donald  
DeStefano, Stephen  
Hamm, Christine  
Perkins, Randy  
Seldin, Gloria

Clarke, Claire  
French, Barbara  
Lockwood, Priscilla  
Potter, Frances  
Soltani, Tony

**ROCKINGHAM**

Abbott, Dennis  
Clark, Vivian  
Gould, Kenneth  
Langone, John  
Pantelakos, Laura  
• Vallone, Matthew

Allen, Mary  
DiFruscia, Anthony  
Itse, Daniel  
McEachern, Paul  
Scamman, Stella  
Varrell, Thomas

Blanchard, MaryAnn  
Duffy, James  
Johnson, Robert  
Morris, Richard  
Shultis, Elizabeth

Casey, Kimberley  
Dumaine, Dudley  
Langley, Jane  
Norelli, Terie  
Splaine, James

**STRAFFORD**

Berube, Roger  
Hofemann, Roland  
Miller, Joseph  
Schmidt, Peter  
Wall, Janet

Creteau, Irene  
Johnson, Nancy  
Pelletier, Arthur  
Smith, Marjorie  
Woods, Phyllis

Dunlap, Patricia  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair

Heon, Richard  
Knowles, William  
Rous, Emma  
Taylor, Kathleen

**SULLIVAN**

Allison, David  
Ferland, Brenda

Burling, Peter  
Franklin, Peter

Cloutier, John  
Leone, Richard

Donovan, Thomas  
Phinizy, James

**NAYS 197****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Nedeau, Stephen  
Thomas, John

Allen, Janet  
Dewhirst, Glenn  
Pilliod, James  
Whalley, Michael

Bartlett, Gordon  
Flanders, Donald  
Rice, Thomas

Boyce, Laurie  
Holbrook, Robert  
Russell, David

**CARROLL**

Babson, David Jr  
Hatch, Paul  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Royce, H Charles	Smith, Edwin	

**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Gilman, G Michael	Gionet, Edmond	Giuda, Robert
Ingbretson, Paul	Maybeck, Margie	Naro, Debra	Sorg, Gregory

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Barry, J Gail	Batula, Peter	Beaton, William	Bergeron, Jean-Guy
Brundige, Robert	Buhlman, David	Cail, Kenneth	Carlson, Donald
Carter, Jeffrey	Carter, Mark	Cernota, Albert	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela	Crane, Elenore Casey
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Gargas, Carolyn	Gonzalez, Carlos
Graham, John	Greenberg, Gary	Hall, Charles	Harrington, Paul
Haytayan, Harry Jr	Hunter, Bruce	Infantine, William	Jasper, Shawn
Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul	Lawrence, James
Luebker, Bernard	McElroy, Henry Jr	Mercer, Robert	Mooney, Maureen
Moran, Edward	Mosher, William	Ober, Russell III	Pappas, Marc
Pepino, Leo	Price, Pamela	Reeves, Sandra	Rowe, Robert
Slocum, Lee	Spiess, Paul	Stepanek, Stephen	Tahir, Saghir
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Currier, David	Daniels, Eric	Dunne, Christopher
Field, William	Foley, Albert	Fraser, Leo Jr	Hess, David
Jacobson, Alf	Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen
Langer, Ray	Leber, William	MacKay, James	Marple, Richard
McCormick, Tom	Nutter, Edward	Oliver, James	Reed, Dennis

**ROCKINGHAM**

Belanger, Ronald	Bishop, Franklin	Bridle, Russell	Cady, Harriet
Camm, Kevin	Carson, Sharon	Cooney, Richard	Dalrymple, Janeen
Dodge, Robert	Dowd, John	Fesh, Bob	Flanders, John Sr
Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas	Griffin, Mary
Hamel, Albert	Headd, James	Holland, James Jr	Hughes, Daniel
Ingram, Russell	Introne, Robert	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kobel, Rudolph	Letourneau, Robert	Major, Norman
Manning, John	McCann, Richard	McKinney, Betsy	McMahon, Charles
Noyes, Richard	O'Neil, Michael	Packard, Sherman	Priestley, Anne
Putnam, Ed II	Quandt, Matthew	Rausch, James	Robertson, Carl
Roessner, Kurt	Ruffner, Walter	Smith, Donald	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert
Winchell, George	Zolla, William		

**STRAFFORD**

Albert, Russell	Bemis, Alan	Bickford, David	Cataldo, Sam
Easson, Timothy	Harrington, Michael	Musler, George	Newton, Clifford
Scott, David			

## SULLIVAN

Flint, Gordon Sr

Jones, Constance

Rodeschin, Beverly

and the motion to refer to Finance failed.

The bill was ordered to third reading.

**SB 408**, relative to a civil liability exemption for claims resulting from weight gain and obesity. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. James W. Craig for the Majority of Judiciary: The majority believes that this bill attempts to fix a problem that does not exist in New Hampshire. There is no legal duty for food "manufacturers, distributors, marketers, packers, advertisers, and sellers of food" to make sure that a person does not become obese by eating their products and the majority believes that no New Hampshire court or jury would allow that result. Therefore, there is no reason to create an immunity for the food industry. The minority believes that the legislature should be proactive on this issue but the majority asserts that granting immunity to an entire industry is public policy that should be used sparingly and only for good reason. This is not such a time and this is not a good reason. Vote 8-6.

Rep. Terri C. Dudley for the Minority of Judiciary: The minority agrees with the majority that this bill attempts to fix a problem that does not exist in New Hampshire. However, the minority felt strongly that if the prevalence of suits for ones obesity should ever occur, the industry should receive a positive signal that the legislature would undoubtedly be amenable to taking strong measures to prevent the ridiculous notion that a restaurant should be liable for someone eating too much and becoming obese. A simple amendment protecting our restaurant industry, which acts as our "tax collector" for the 8 percent meals tax would make sense. But not now – without an identifiable problem existing. We hope that this strong minority vote will give our food industry some comfort that we are truly concerned for their interests. Further, let this vote be a "shot across the bow" for anyone who may have pecuniary interests in this area of litigation.

Majority committee report adopted.

**SB 455**, removing the requirement that district courts be open on Saturdays for arraignments. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry M. Haytayan for Judiciary: This bill improves the efficiency of the district court proceedings by eliminating wasteful use of resources. Bail commissioners establish bail for all defendants incarcerated over the weekend, other than those held for domestic abuse, pursuant to RSA 173-B. Therefore, requiring district courts to be open on Saturdays is not necessary. The amendment improves the original bill by requiring that defendants held pursuant to RSA 173-B have access to a judge on Saturday, so that they may be released on bail, as is currently done. Vote 11-3.

## Amendment (1043h)

Amend the bill by replacing all after the enacting clause with the following:

1 Place and Time of Detention. Amend RSA 594:20-a to read as follows:

594:20-a Place and Time of Detention.

*I.* When a person is arrested with or without a warrant he *or she* may be committed to a county correctional facility, to a police station or other place provided for the detention of offenders, or otherwise detained in custody; provided, however, that he *or she* shall be taken before a district [or municipal] court without unreasonable delay, but not exceeding 24 hours, *Saturdays*, Sundays, and holidays excepted, to answer for the offense.

*II. Notwithstanding the provisions of paragraph I, defendants detained under RSA 173-B shall have timely access to a bail hearing by telephonic means or otherwise as determined by the district court.*

2 Effective Date. This act shall take effect upon its passage.

Adopted.

Report adopted and ordered to third reading.

**SB 512-FN**, establishing a Lake Sunapee public access commission. **INEXPEDIENT TO LEGISLATE**

Rep. Harry C. Mellow for Resources, Recreation and Development: This bill would establish a committee to again review the placement of a public access on Lake Sunapee. This has been studied for many years with public hearings being held at Sunapee ski area. As a result of these hear-

ings a previous decision was made to establish access at the Wild Goose site. The state currently has a Public Water Access Advisory Board to review public access to state waters. If any further study is needed it should be done by this board. Vote 11-3.

Rep. Jacobson spoke against and yielded to questions.

Rep. Royce spoke in favor.

Adopted.

### SPECIAL ORDER

Rep. Burling moved that **SB 525-FN-A**, relative to land and community heritage investment program administration, be made a Special Order for next session, April 22, 2004 at its regular place in the Regular Calendar.

Adopted.

### REGULAR CALENDAR (CONT'D)

**SB 399-FN**, relative to the sale of animals. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kurt J. Roessner for Ways and Means: This bill, as amended, will assist the state veterinarian to enforce existing animal cruelty laws. This legislation provides for the licensing and inspection of breeders which sell or transfer 10 or more litters or 50 or more puppies a year. The bill also increases facility inspection fees charged by the state veterinarian to offset the costs of inspections. These fees have not increased in twenty years. There was no testimony presented to Ways & Means or to a joint Ways & Means/Environment and Agriculture subcommittee in opposition to the amended bill or to the fee increases. Vote 13-2.

### Amendment (0998h)

Amend the bill by replacing all after the enacting clause with the following:

1 Sale of Animals; License. Amend RSA 437:1 to read as follows:

437:1 License Required. No person, firm, corporation or other entity shall engage in the business of selling or the business of placing or giving away, with or without a fee or donation required, to the public, live animals or birds customarily used as household pets unless the premises on which they are housed, harbored or displayed for such purposes are duly licensed and inspected by the department of agriculture, markets, and food of the state of New Hampshire. *This section shall also apply to commercial kennels.*

2 New Paragraph; Commercial Kennel Definition. Amend RSA 437:2 by inserting after paragraph I the following new paragraph:

I-a. "Commercial kennel" means any person, business, corporation, or other entity that sells or transfers 10 or more litters or 50 or more puppies in any 12-month period.

3 Licensing Fees; Increase. Amend RSA 437:3 to read as follows:

437:3 Licenses. Applications for licenses shall be made annually in writing to the department accompanied by a license fee of [~~\$50~~] **\$200**. After January 1, the license fee shall be [~~\$25~~] **\$100**. If after inspection the department finds that the premises, cages and facilities thereon meet the proper standards for health and sanitation and that their use will not result in inhumane treatment of said animals or birds, a license shall be issued. Licenses shall expire on June 30 following issue, and may be renewed on application to the department accompanied by a renewal fee of [~~\$50~~] **\$200**. Such licenses shall be in the form prescribed by the department, shall be publicly displayed at the premises covered by them and adjacent to animal display cages. Each such license shall be subject to revocation at any time by the department, if in the judgment of the department the conditions under which it was issued are not being maintained. Each licensee shall be inspected by an employee of the department or by a person appointed by the department no less frequently than every 6 months. Upon receipt of a written complaint alleging violation of this subdivision, the department shall investigate said complaint within a reasonable time. All license fees shall be deposited in the state treasury.

4 Sale of Animals; Penalty. RSA 437:9 is repealed and reenacted to read as follows:

437:9 Penalty.

I. Any person who violates any provision of this subdivision shall be guilty of a misdemeanor.

II. In addition, any person or owner who violates any of the provisions of this subdivision or rule adopted under it may be subject to an administrative fine levied by the commissioner not to exceed \$1,000 for each violation.

III. Once a license has been revoked under the provisions of RSA 437:3, the department may require that all animals and birds located on the premises for which such license was revoked shall be removed by the licensee from said premises within 3 working days after said revocation and be relocated to a safe and sanitary place approved by the department.

5 Effective Date. This act shall take effect January 1, 2005.

#### AMENDED ANALYSIS

This bill clarifies that the standards that apply to the retail sales of animals also apply to commercial kennels. The bill increases certain licensing fees and changes the penalty for violations of laws regarding sale of animals.

Adopted.

Report adopted and ordered to third reading.

**SB 450-FN**, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs. **OUGHT TO PASS**

Rep. Christopher C. Pappas for Ways and Means: This bill extends pari-mutuel licensing through 2029, and changes the law to allow the commission to license racetracks for both harness and thoroughbred racing during the same year. One effect of the bill would be to permit Rockingham Park in Salem to bring back thoroughbred horse racing. This bill also holds the trainers of horses and dogs ultimately responsible for their condition, and gives the pari-mutuel commission the right to impose sanctions on those trainers not in compliance with its rules. The committee overwhelmingly felt that these changes were an important move to the long term viability of Rockingham Park and the safety and well-being of the horses and dogs at the tracks and recommended that it be passed. Vote 13-1.

Adopted and ordered to third reading.

#### BILLS REMOVED FROM CONSENT CALENDAR

**SB 439**, relative to probationary drivers' licenses. **OUGHT TO PASS**

Rep. Stanley E. Stevens for Criminal Justice and Public Safety: This bill repeals the requirement that a driver under the age of 21 years, who is convicted of unlawful possession of alcohol under RSA 179:10, be issued a probationary license until he or she reaches the age of 21 years. No one appeared in opposition to this bill and the Department of Safety appeared to support the bill. It seemed unreasonable to restrict a person's driver's license for a crime where no operation of a vehicle is involved. The committee was unanimous in support of ought to pass. Vote 14-0.

Rep. Knowles offered a floor amendment (1144h).

#### Floor Amendment (1144h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to probationary drivers' licenses and amending the effective date for establishing a criminal penalty for facilitating a drug or underage alcohol house party.

Amend the bill by replacing all after section 1 with the following:

2 Criminal Penalty for Facilitating a Drug or Underage Alcohol House Party; Effective Date of HB 464 of the 2004 Legislative Session Amended. Amend HB 464 of the 2004 legislative session by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill repeals the requirement that a driver under the age of 21 years who is convicted of unlawful possession of alcohol or intoxication be issued a probationary license. A probationary licensee is prohibited from driving with an alcohol concentration of 0.03 or more. This bill also changes the effective date of HB 464 of the 2004 legislative session establishing a criminal penalty for facilitating a drug or underage alcohol house party from January 1, 2005 to upon passage.

Rep. Knowles spoke in favor.

Floor amendment (1144h) adopted.

The motion of Ought to Pass with Amendment was adopted.

Ordered to third reading.

**SB 418**, relative to voting procedures in the Hanover school district. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael A. Balboni for Education: The bill enables the Hanover school district to adopt and implement a method of voting on warrant articles similar to procedures used by the Dresden, VT school district and to hold school district elections to coincide with voting in the Dresden school district. The amendment clarifies the question presented to the voters on the official ballot by listing every provision to be adopted. If the question is adopted by the voters of Hanover, they would be adopting many of the provisions of an SB2 town. The amendment, therefore, specifies that a 3/5 majority of those voting on the question is required for its adoption. This coincides with the 60% needed for a town to adopt the provisions of SB2. Both sponsors of the original bill agreed to these changes. Vote 11-0.

**Amendment (0921h)**

Amend the bill by replacing section 2 with the following:

**2 Hanover School District; Ballot Question.**

I. The school district clerk shall include on the regular ballot for the election of officers at the first election, occurring at least 30 days after the effective date of this act, a question in the following form:

"Shall the provisions of an act of the 2004 legislative session entitled "An act relative to the voting procedures in the Hanover school district" be adopted, enabling the Hanover school district to adopt a modified method of official ballot voting similar to the official ballot procedures used by the Dresden school district including the following provisions:

(a) The method of voting shall be the same as the official ballot method used by the Dresden school district to the following extent:

(1) Each district meeting shall consist of 2 sessions, a discussion session held on the first meeting day and a voting session to take place during designated hours in the second meeting day.

(2) The discussion session of the meeting shall consist of explanation, discussion, and debate of each warrant article.

(3) Articles shall not be amendable at the discussion session.

(4) All warrant articles shall be proposed in the form of a question to the voters and shall be placed on the official ballot.

(5) All voting to fill elected positions and all voting on warrant articles shall be conducted by secret written ballot during the voting session on the second day of the district meeting.

(6) All requirements pertaining to absentee voting shall apply.

(b) Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract, or written agreement and except that the issue of notes or bonds shall be authorized by a vote of 3/5.

(c) The warrant for any annual or special meeting shall prescribe the date, place, and hour for the first and second session of the meeting.

(d) Votes taken at the second session shall be subject to recount under RSA 671:32.

(e) Votes taken at the second session shall not be reconsidered.

(f) Notwithstanding RSA 197:1, the 2 sessions of the annual meeting may be held before March 1 or after March 25 to allow for voting in coordination with the Dresden school district.

(g) The first session of all district meetings shall be deemed the district meeting date for the purposes of budget hearings under RSA 32:5, bond hearings under RSA 33:8-a, the "budget submission date" as defined under RSA 273-A:1, III, submission of petitioned articles under RSA 197:6, and the posting of warrants and budgets under RSA 197:7.

(h) Notwithstanding RSA 671:2, the second session of the annual meeting shall be deemed the annual election date for the purposes of all applicable election statutes including, but not limited to, RSA 671:15, RSA 671:19, and RSA 671:30-32.

(i) Except as set forth above, voting at the second session shall conform to the procedures for the non-partisan ballot system as set forth RSA 669:19-25 and RSA 671:20-27, RSA 671:28, and RSA 671:30, including all requirements pertaining to polling place and polling hours.

(j) Except as set forth in this section, the provisions of general law relative to school district meetings, their warning, the right for petitioned articles, and the conduct of district meetings shall apply."

II. Beneath this question shall be printed the word "Yes" and the word "No" with a square immediately opposite each such word in which the voter may indicate his or her choice.

III. A 3/5 majority of those voting on the question shall be required for adoption. Only affirmative or negative votes shall be included in the calculation of the 3/5 majority.

IV. The Hanover school district clerk shall, within 10 days after the election, certify to the secretary of state the result of the vote on the question.

Rep. Stephen L'Heureux moved Recommit to committee and spoke in favor.

Adopted.

Recommitted to the Committee on Education.

**SB 409-FN, revising the vocational school licensing statutes. OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The bill revises the definitions, exclusion fee structure and licensing requirements for private post-secondary career schools. The bill also enhances the commission's authority to address violations of this statute. The bill defines the new student tuition guarantee fund alternative to the current surety bond for tuition guarantees. The bill makes provision for the discontinuance of the surety bond when the student tuition guarantee fund is adequately funded. Vote 18-0.

Rep. O'Neil offered corrected committee amendment (1092h)

**Amendment (1092h)**

Amend RSA 188-D:19, I(c) as inserted by section 2 of the bill by replacing it with the following:

(c) "Physical presence" means any physical location or place of contact, including a New Hampshire telephone exchange or a New Hampshire mail drop, and if an individual is conducting one or more of the following activities within this state:

- (1) Advertising.
- (2) Solicitation of potential students.
- (3) Enrollment of students.
- (4) Providing student services.
- (5) Student mentoring.
- (6) Instruction of students.

Amend RSA 188-D:19, II as inserted by section 2 of the bill by inserting after subparagraph (i) the following new subparagraphs:

(j) A person with fewer than 5 students per calendar year.

(k) An individual or facility training students under 14 CFR part 91 or 14 CFR part 141, or receiving flight or ground instruction required by the Federal Aviation Administration.

Amend RSA 188-D:20 as inserted by section 2 of the bill by replacing it with the following:

188-D:20 Licenses and Fees.

I. Prior to registering a business or trade name, or soliciting students for enrollment, an entity maintaining a physical presence in this state shall be reviewed by the postsecondary education commission to determine if the entity requires a license. The executive director, in consultation with the postsecondary education commission, shall establish procedures to accomplish this review.

II. If the postsecondary education commission determines that a license is required, a private postsecondary career school maintaining a physical presence in this state shall register to obtain a license or license renewal from the postsecondary education commission. The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the executive director, in consultation with the postsecondary education commission. The rules shall establish minimum criteria, including but not limited to, financial stability, educational program, administrative and staff qualifications, business procedures, facilities, equipment, and ethical practices to be met by licensees. In no case shall a license or license renewal be issued to any school, which has not met the requirements of RSA 188-D:20-a or RSA 188-D:20-b.

III. The executive director, in consultation with the postsecondary education commission, may establish reasonable fees for administration of this subdivision, including fees for licenses, renewals, penalties, reimbursement for consultants, complaint investigation, and enforcement.

Rep. O'Neil spoke in favor.

Adopted.

Report adopted.

Referred to Finance.

**SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities. **OUGHT TO PASS WITH AMENDMENT**

Rep. Peter B. Schmidt for Municipal and County Government: This bill establishes a commission to study the use of municipal bonds for construction, development, improvement, and acquisition of broadband facilities. The committee felt that the availability of broadband facilities greatly enhances the economic competitiveness of businesses in New Hampshire, as well as providing citizens and businesses greater usefulness of online services. Many smaller communities in New Hampshire currently lack access to broadband. This commission will seek to improve such access. Vote 13-0.

#### Amendment (0938h)

Amend paragraph I as inserted by section 2 of the bill by replacing it with the following:

I. The members of the commission shall be as follows:

- (a) Two members of the senate, appointed by the president of the senate.
- (b) Two members of the house of representatives, one of whom shall be a member of the science, technology and energy committee, appointed by the speaker of the house of representatives.
- (c) The commissioner of the department of resources and economic development, or designee.
- (d) A representative from the New Hampshire ISP Association, appointed by the association.
- (e) A representative from the New Hampshire Municipal Association, appointed by the association.
- (f) A representative from the New England Cable Television Association, appointed by the association.
- (g) A representative from the Telephone Association of New Hampshire, appointed by the association.
- (h) One attorney who serves as a bond counsel to local government, appointed by the New Hampshire Bar Association.
- (i) A member of the telecommunications planning and development advisory committee established under RSA 12-A:46, appointed by the chair of the committee.
- (j) A representative of open video suppliers, identified and appointed by the president of the senate.

Rep. Patten spoke in favor.

Adopted.

Report adopted and ordered to third reading.

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. **OUGHT TO PASS WITH AMENDMENT**

Rep. D. L. Chris Christensen for Resources, Recreation and Development: This bill was drafted to make technical corrections to the coarse filters/fine filters criteria for state ATV trail development on state owned lands. Specifically, "wellhead protection area", a 4000' radius language was used where the reference should have been to "sanitary protection area", a range of 75 to 400' radius varying with well withdrawal volume. There was also clarification that the filter criteria apply to all land for trails, not just "private". The amendment specifies that trails may not be developed in any case closer than 400' to a wellhead. This is the maximum of the sanitary protection area. It also specifies that proposed trails should be in accordance with existing RSA 215-A:43 II, (J), which incorporates existing motorized travel corridors whenever possible. Vote 12-1.

#### Amendment (1064h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to landowner permission for OHRV operation, relative to loading and unloading OHRVs on highways, and relative to criteria for trail construction on state-owned property for all-terrain vehicles and trail bikes.

Amend the bill by replacing all after section 1 with the following:

2 OHRVs; Trail Evaluation Process. Amend RSA 215-A:43, II, (I) – (O) to read as follows:

(I) The proposed trail does not pass through ~~a wellhead protection~~ *the sanitary protective area of a community groundwater supply* as determined by the department of environmental services ~~under RSA 485:48, H], and in no case shall the trail be closer than 400 feet from a wellhead.~~



(m) The proposed trail is not located on earthen dams, dikes, and spillways.

(n) The proposed trail avoids areas having soil types classified as important forest soil group IIA or IIB as defined and mapped by the Natural Resources Conservation Service, unless there is an existing soil condition or surface roadway that can be used to reduce adverse environmental impacts.

(o) The proposed trail is not within 100 feet of the ordinary high water mark of first and second order streams, 330 feet of third order streams, and 600 feet of fourth order and higher streams, except for purposes of stream crossing, *except as provided for in subparagraph II(j)*.

3 Repeal. RSA 215-A:9, VI, relative to loading and unloading OHRVs on highways for trail access, is repealed.

4 Effective Date.

I. Sections 1 and 3 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill

I. Requires persons operating OHRVs to have permission from private and public landowners.

II. Repeals an exception for loading and unloading OHRVs on highways from the prohibition on operating in highway rights-of-way.

III. Changes certain ATV and trail bike trail criteria for planning and layout of a trail on state-owned property.

Rep. Rush spoke against.

Rep. Chris Christensen spoke in favor.

Rep. Bruggeman spoke against and yielded to questions.

Rep. Royce spoke in favor and yielded to questions.

Rep. Royce requested a roll call; sufficiently seconded.

The question being adoption of the committee amendment.

**YEAS 184 NAYS 147**

### YEAS 184

#### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Russell, David

Allen, Janet  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Pilliod, James  
Wendelboe, Fran

Boyce, Laurie  
Rice, Thomas  
Whalley, Michael

#### CARROLL

Babson, David Jr  
Hatch, Paul  
Mock, Henry

Brown, Carolyn  
Kenney, Bettie  
Patten, Betsey

Derby, Mark  
McConkey, Mark  
Stevens, Stanley

Dickinson, Howard  
Merrow, Harry

#### CHESHIRE

Dexter, Judson  
Liebl, George  
Smith, Edwin

Fish, Douglas  
Manning, Joseph

Hunt, John  
Parkhurst, Henry

Laurent, John  
Royce, H Charles

#### COOS

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton  
Woodward, David

Richardson, Herbert

#### GRAFTON

Alger, John  
Dudley, Terri  
Giuda, Robert  
Solomon, Peter

Barker, Robert  
Eaton, Stephanie  
Ham, Bonnie  
Sorg, Gregory

Bleyler, Ruth  
Gilman, G Michael  
Ingretson, Paul

Dorsett, Andrew  
Gionet, Edmond  
Naro, Debra

#### HILLSBOROUGH

Adams, Jarvis  
Beaton, William

Arnold, Thomas Jr  
Bergeron, Jean-Guy

Artz, Lawrence  
Brundige, Robert

Batula, Peter  
Bruno, Pierre

Buhlman, David  
 Cemota, Albert  
 Crane, Elenore Casey  
 Fields, Dennis  
 Graham, John  
 Hawkins, Ken  
 Jasper, Shawn  
 Lawrence, James  
 Moran, Edward  
 Reeves, Sandra  
 Spiess, Paul

Cail, Kenneth  
 Chabot, Robert  
 Dionne, Kimberley  
 Fletcher, Richard  
 Hall, Charles  
 Haytayan, Harry Jr  
 Kurk, Neal  
 Luebker, Bernard  
 Mosher, William  
 Ross, Lawrence  
 Stepanek, Stephen

Carter, Jeffrey  
 Christensen, D L Chris  
 Elliott, Larry  
 Gargas, Carolyn  
 Hansen, Ryan  
 Hopper, Gary  
 L'Heureux, Robert  
 Mercer, Robert  
 Pepino, Leo  
 Rowe, Robert  
 Wheeler, James

Carter, Mark  
 Coughlin, Pamela  
 Emerton, Larry  
 Gonzalez, Carlos  
 Harrington, Paul  
 Hunter, Bruce  
 LaFlamme, Paul  
 Mooney, Maureen  
 Price, Pamela  
 Slocum, Lee  
 Wheeler, Robert

### **MERRIMACK**

Anderson, Eric  
 Hess, David  
 Leber, William  
 Reed, Dennis

Currier, David  
 Jacobson, Alf  
 MacKay, James

Dunne, Christopher  
 Kenison, Leon  
 Marple, Richard

Foley, Albert  
 Kennedy, Richard  
 McCormick, Tom

### **ROCKINGHAM**

Allen, Mary  
 Camm, Kevin  
 Dodge, Robert  
 Fesh, Bob  
 Gillick, Thomas  
 Holland, James Jr  
 Johnson, Robert  
 Kobel, Rudolph  
 Manning, John  
 Morris, Richard  
 Priestley, Anne  
 Roessner, Kurt  
 Waterhouse, Kevin  
 Weyler, Kenneth

Belanger, Ronald  
 Carson, Sharon  
 Dowd, John  
 Flanders, John Sr  
 Griffin, Mary  
 Ingram, Russell  
 Johnson, Rogers  
 Langley, Jane  
 McCann, Richard  
 Noyes, Richard  
 Putnam, Ed II  
 Smith, Donald  
 Weare, E Albert  
 Wiley, Robert

Bridle, Russell  
 Cooney, Richard  
 Duffy, James  
 Gilbert, Jeffrey  
 Hamel, Albert  
 Introne, Robert  
 Katsakiores, George  
 Letourneau, Robert  
 McKinney, Betsy  
 O'Neil, Michael  
 Quandt, Matthew  
 Smith, Paul  
 Welch, David  
 Winchell, George

Cady, Harriet  
 Dalrymple, Janeen  
 Dumaine, Dudley  
 Gilbert, Karl  
 Headd, James  
 Itse, Daniel  
 Katsakiores, Phyllis  
 Major, Norman  
 McMahon, Charles  
 Packard, Sherman  
 Rausch, James  
 Varrell, Thomas  
 Weldy, Norman Jr

### **STRAFFORD**

Albert, Russell  
 Easson, Timothy  
 Woods, Phyllis

Bemis, Alan  
 Musler, George

Berube, Roger  
 Newton, Clifford

Bickford, David  
 Scott, David

### **SULLIVAN**

Flint, Gordon Sr

Rodeschin, Beverly

### **NAYS 147**

### **BELKNAP**

Holbrook, Robert

Laffam, Robert

### **CARROLL**

Olimpio, J Lisbeth

### **CHESHIRE**

Allen, Peter  
 Meader, David  
 Tilton, Anna

Dunn, James  
 Mitchell, McKim  
 Webber, Amy

Eaton, Daniel  
 Pratt, Irene  
 Weed, Charles

Espiefs, Peter  
 Richardson, Barbara

### **COOS**

Poulin, Richard

Theberge, Robert

**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Cooney, Mary
Diamond, Estelle	Hammond, Lee	Maybeck, Margie	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda		

**HILLSBOROUGH**

Allan, Nelson	Balboni, Michael	Baroody, Benjamin	Barry, J Gail
Bergin, Peter	Brassard, Paul	Buckley, Raymond	Carlson, Donald
Christiansen, Lars	Clayton, William	Clemons, Jane	Cote, David
Cote, Peter	Craig, James	Dokmo, Cynthia	Drisko, Richard
Ford, Nancy	Gibson, John	Gorman, Mary	Goyette, Peter Jr
Hagan, Barbara	Haley, Robert	Hallyburton, Margaret	Holden, Randolph
Infantine, William	Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel
Katsiantonis, Thomas	Kopka, Angeline	Lasky, Bette	Leach, Edward
Malloy, Chris	McElroy, Henry Jr	McRae, Karen	Michon, Stephen
Movsesian, Lori	O'Brien, Lori	Ober, Russell III	Palangas, Eric
Pappas, Christopher	Pilotte, Maurice	Schulze, Joan	Shaw, Barbara
Souza, Kathleen	Sullivan, Francis	Sullivan, Peter	Sweeney, Cynthia

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Daniels, Eric	Davis, Frank	DeJoie, John	DeStefano, Stephen
Field, William	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	L'Heureux, Stephen	Langer, Ray
Lockwood, Priscilla	Nutter, Edward	Oliver, James	Osborne, Jessie
Perkins, Randy	Potter, Frances	Rodd, Beth	Rush, Deanna
Seldin, Gloria	Soltani, Tony	Wallner, Mary Jane	

**ROCKINGHAM**

Abbott, Dennis	Bishop, Franklin	Blanchard, MaryAnn	Casey, Kimberley
Clark, Vivian	Corbin, Corey	DiFruscia, Anthony	Gould, Kenneth
Hughes, Daniel	Langone, John	McEachern, Paul	Norelli, Terie
Robertson, Carl	Scamman, Stella	Shultis, Elizabeth	Splaine, James
Stone, Joseph	Tufts, J Arthur	Vallone, Matthew	Zolla, William

**STRAFFORD**

Cataldo, Sam	Creteau, Irene	Dunlap, Patricia	Harrington, Michael
Heon, Richard	Hofemann, Roland	Johnson, Nancy	Keans, Sandra
Knowles, William	Miller, Joseph	Pelletier, Arthur	Rollo, Deanna
Rous, Emma	Schmidt, Peter	Smith, Marjorie	Snyder, Clair
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Donovan, Thomas	Ferland, Brenda
Franklin, Peter	Jones, Constance	Leone, Richard	Phinizy, James

and the committee amendment was adopted.

On a division vote, 188 members having voted in the affirmative and 142 in the negative, the report was adopted.

Ordered to third reading.

**SENATE MESSAGES****CONCURRENCE**

**HB 503**, relative to septic system construction permits.

**HB 812**, relative to state acquisition of privately-owned airports.

**HB 1130**, relative to certain insurance agents.

**HB 1261**, establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.

**HB 1275-FN-A**, relative to the role of the department of health and human services in juvenile proceedings.

**HB 1334**, relative to retention of records of fish and game law violations by the fish and game department.

**HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils.

**HB 1397**, relative to youth suicide prevention.

**HB 1416**, extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.

**HB 1426-FN**, relative to testing for the human immunodeficiency virus.

**HCR 17**, urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general.

### NONCONCURRENCE

**HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases

**HB 1179 -FN**, relative to driver education training reimbursement.

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 1352 and Senate Bill numbered 336.

Rep. Currier, Sen. D'Allesandro for the Committee

### SENATE MESSAGES

#### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 652-FN**, relative to qualified wellness or disease management programs. (Amendment printed SJ 04/01/04)

Rep. Hunt moved that the House concur and spoke in favor.

Adopted.

**HB 1161**, relative to solicitation and marketing of insurance products. (Amendment printed SJ 04/01/04)

Rep. Hunt moved that the House concur and spoke in favor.

Adopted.

**HB 403**, requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender. (Amendment printed SJ 04/01/04).

Rep. Welch moved that the House concur.

Reps. Tholl and Crane spoke in favor.

Adopted.

**HB 1414**, establishing a commission to study issues regarding the women's prison facility. (Amendment printed SJ 04/08/04)

Rep. Welch moved that the House concur and spoke in favor.

Adopted.

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district. (Amendment printed SJ 03/17/04)

Rep. Stephen L'Heureux moved that the House concur and spoke in favor.

Adopted.

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing. (Amendment printed SJ 03/17/04)

Rep. Babson moved that the House concur and spoke in favor.

Adopted.

**HB 440**, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals. (Amendment printed SJ 04/01/04)

Rep. McKinney moved that the House concur and spoke in favor.

Adopted.

**HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners. (Amendment printed SJ 03/11/04)

Rep. McKinney moved that the House concur and spoke in favor.  
Adopted.

**HB 444**, relative to summoning witnesses from another state in certain actions involving children. (Amendment printed SJ 04/01/04)

Rep. Mock moved that the House concur and spoke in favor.  
Adopted.

**HB 622-FN**, clarifying certain exemptions from the right-to-know law. (Amendment printed SJ 04/01/04)

Rep. Mock moved that the House concur and spoke in favor.  
Adopted.

## RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, April 22, 2004 at 10:00 a.m.

Adopted.

## LATE SESSION

### Third reading and final passage

**SB 416**, relative to membership of the advisory committee on child care.

**SB 207**, relative to transactions exempt from the consumer protection act.

**SB 345**, exempting payroll accounts from trustee process.

**SB 347-FN**, relative to financial responsibility and conduct after an OHRV accident.

**SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.

**SB 424-FN**, relative to boating and carnival-amusement regulation by the department of safety.

**SB 511-FN**, relative to the penalties for rioting.

**SB 351-FN**, relative to concurrent enrollment at regional vocational education centers.

**SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing.

**SB 311**, relative to civil penalties for unlawful campaign practices.

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

**HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

**SB 330-FN**, relative to creditable service of retirement system members reemployed after qualifying military service.

**SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

**SB 380**, establishing a statewide incident command system.

**SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system.

**SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services and a division of fire safety in the department of safety.

**SB 469**, relative to licensing of boiler inspectors.

**SB 497-FN**, relative to renewal of electrician's licenses.

**SB 499**, making a change to the electrician licensing exemption.

**SCR 6**, designating January as stalking awareness month.

**SB 337**, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals.

**SB 340**, relative to the release of information on fish stocking by the executive director of fish and game.

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

**SB 494**, relative to the prohibition on taking conch and winkles and relative to licensing requirements for taking lobsters and crabs.

**SB 438**, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities.

**SB 465**, relative to testimony of witnesses about confidential settlements.

**SB 358**, relative to incompatibility of municipal offices.

**SB 456**, relative to record books maintained by registers of deeds.

**SB 466**, relative to records management services of a municipality.

**SB 381**, relative to the transfer of certain capital appropriations within the department of safety.

**SB 413-FN**, relative to financing federally aided highway projects.

**SB 346**, relative to prohibiting the operation of snowmobiles on open water.

**SB 377**, relative to damage to land by certain recreational uses.

**SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking.

**SB 488**, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

**SB 379**, relative to safety inspection and certification of certain equipment of vehicles.

**SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records.

**SB 457**, relative to animal population control.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

**SB 383-FN**, relative to pharmacy benefit management.

**SB 455**, removing the requirement that district courts be open on Saturdays for arraignment.

**SB 399-FN**, relative to the sale of animals.

**SB 450-FN**, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs.

**SB 439**, relative to probationary drivers' licenses.

**SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways.

## RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 3:45 p.m.

## RECESS

(Speaker Chandler in the Chair)

## COMMITTEE ASSIGNMENT

Rep. Dennis Abbott on Legislative Administration.

## RECESS

(Rep. Gilman in the Chair)

## ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 503 and 812 and Senate Bill numbered 340.

Rep. Currier, Sen. D'Allesandro for the Committee

**SENATE MESSAGES****CONCURRENCE**

**HB 1138**, establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.

**HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads.

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program.

**HB 1417**, relative to examination of persons called as jurors in civil cases.

**HB 1419**, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services.

**HB 1423-FN**, lative to reimbursement of travel expenses for judges.

**NONCONCURRENCE**

**HB 265**, relative to the health care delivery system.

**HB 1393**, relative to the appeal of the lower court's decision in a child protection case.

**CONCURRENCE WITH AMENDMENT**

**SB 336**, relative to certain costs in the development of a high school in the town of Bedford.

**RECESS**

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.

**HOUSE JOURNAL No. 12**

Thursday, April 22, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Beloved Creator of earth and sky and of all living things that have the breath of life, we thank You for this fragile earth, our island home. May we repent of the many ways in which we selfishly damage it, pollute it, and exploit its resources. Help us to repair what we have done so that the many generations that follow us may have a cleaner and healthier environment.

Please protect Katie and all children today who are in need of medical care as Your strong arms surround Katie's parents and all who stand by lovingly.

Also, bless the work of this honorable House today, and be with all those who stand in harm's way to protect and defend the freedom of all citizens of our beloved New Hampshire. Amen.

Rep. Leighton Pratt led the Pledge of Allegiance.

The National Anthem was sung by Elizabeth Kuesperk, Alexis Vergara, Stephanie Carrera and Darcy Hambleton, students from John Stark Regional High School in Weare.

**LEAVES OF ABSENCE**

Reps. Albert, Callaghan, Casey, Easson, Flanagan, Hagan, Paul Harrington, Joseph Harris, Sandra Harris, Lefebvre, McDonough-Wallace, Moore, Naro, and Rice, the day, illness.

Reps. Berube, Elizabeth Blanchard, Candace Bouchard, Cail, Fitzgerald, Hansen, Hatch, Headd, Hinkle, Hollinger, Introne, Osborne, Perkins, Poulin, John Pratt, Slack, Soltani, Sorg and Woodward, the day, important business.

Reps. Martin and Winchell, the day, illness in the family.

Rep. Campbell, the day, death in the family.

**INTRODUCTION OF GUESTS**

Keith Simpson, nephew of Rep. Sullivan. Marjorie Leber and Corwin Leber, wife and grandson of Rep. Leber. Eliza Cooley, guest of Rep. Rodd. Beverly Wright, sister of Rep. Donald Smith. Karl Meinelt, guest of Reps. DiFruscia, Griffin and Priestly. Gene Andersen, guest of Reps. Almy and Hammond. Eileen Keim, guest of Rep. Seldin.

**INTRODUCTION OF SPECIAL GUESTS**

Ryan Creighton, Bates College debate team member, having participated in national and international debate competitions, guest of the House. Students and teachers from Lycee Saint Dominique School in Bethune, France, who are visiting Kingswood Regional High School in Wolfeboro, accompanied by Felice Carr, French teacher at Kingswood, guests of the Carroll County Delegation.

The House recessed at 10:15 a.m.

**RECESS**

**(The Speaker in the Chair)**

The House reconvened at 10:35 a.m.

**ENROLLED BILL AMENDMENT**

***SB 416***, relative to membership of the advisory committee on child care. (Amendment printed SJ 04/22/04)

Adopted.

**SENATE MESSAGES****REQUESTS CONCURRENCE WITH AMENDMENTS**

***HB 532***, relative to notice and filing of divorce petitions. (Amendment printed SJ 04/01/04)

Rep. Moran moved that the House concur and spoke in favor.

Adopted.



**HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. (Amendment printed SJ 03/17/04)  
Rep. Moran moved that the House concur and spoke in favor.  
Adopted.

**HB 1410**, relative to the release of information to persons receiving a child for placement. (Amendment printed SJ 04/01/04)  
Rep. Moran moved that the House concur and spoke in favor.  
Adopted.

**HB 1133**, relative to disclosures required prior to a condominium sale. (Amendment printed SJ 04/15/04)  
Rep. Hunt moved that the House concur and spoke in favor.  
Adopted.

**HB 1155**, clarifying alternative budget adoption procedures in school administrative units. (Amendment printed SJ 04/15/04)  
Rep. Stephen L'Heureux moved that the House concur and spoke in favor.  
Adopted.

**HB 1355**, changing the name of the sweepstakes commission to the lottery commission. (Amendment printed SJ 04/08/04)  
Rep. O'Neil moved that the House concur and spoke in favor.  
Adopted.

**HB 1309**, relative to noise pollution from shooting ranges. (Amendment printed SJ 04/15/04)  
Rep. Mock moved that the House concur and spoke in favor.  
Adopted.

**HB 761**, enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions. (Amendment printed SJ 04/15/04)  
Rep. Patten moved that the House concur and spoke in favor.  
Adopted.

**HB 1301**, relative to extensions to the intent to cut. (Amendment printed SJ 04/15/04)  
Rep. Patten moved that the House concur and spoke in favor.  
Adopted.

**HB 53**, relative to the sale of salvage and rebuilt vehicles. (Amendment printed SJ 04/15/04)  
Rep. Packard moved that the House concur and spoke in favor.  
Adopted.

**HB 1254-FN**, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program. (Amendment printed SJ 03/17/04)  
Rep. Major moved that the House concur and spoke in favor.  
Adopted.

**HB 1311-FN**, establishing a committee to study decreasing the insurance premium tax. (Amendment printed SJ 03/17/04)  
Rep. Major moved that the House concur and spoke in favor.  
Adopted.

**HB 1370**, establishing a committee to study property tax relief. (Amendment printed in SJ 03/17/04)  
Rep. Major moved that the House concur and spoke in favor.  
Adopted.

**HB 1363**, establishing a policy for naming state highways, bridges, and buildings. (Amendment printed in SJ 03/17/04)  
Rep. Edwin Smith moved that the House nonconcur and spoke in favor.  
Adopted.

**HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools. (Amendment printed SJ 04/01/04)

Rep. Moran moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Itse, Arnold, McRae and Gile.

**HB 384**, relative to financial affidavits in domestic relations cases. (Amendment printed SJ 01/07/04)

Rep. Hunt moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Hunt, Holden, Stepanek and DeStefano.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. (Amendment printed SJ 04/01/04)

Rep. Hunt moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Hunt, Speiss, Stepanek and Meader.

**HB 1227**, relative to land assessed for current use which is taken by eminent domain. (Amendment printed SJ 04/08/04).

Rep. Musler moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Babson, Ahern, Philbrick and Peter Allen.

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts. (Amendments printed SJ 04/15/04).

Rep. Musler moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Olimpio, Rous, Patten and Stohl.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. (Amendment printed SJ 04/15/04)

Rep. Musler moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Olimpio, Cernota, Paul Laflamme and Diamond.

**HB 1293**, relative to emission control equipment for certain vehicles. (Amendment printed SJ 04/08/04)

Rep. Thomas moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Thomas, Hunt, Artz and Kaen.

**HB 243**, relative to motor vehicle exhaust noise standards. (Amendments printed SJ 04/8/04)

Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Packard, Letourneau, Artz and Ferland.

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star. (Amendments printed SJ 04/08/04)

Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Packard, Letourneau, John Flanders and Ferland.

## COMMITTEE REPORTS

### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

Consent Calendar adopted.

**SB 301-FN**, relative to liquor licenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This bill, relative to liquor licenses and the sale of alcoholic beverages, was introduced at the request of the New Hampshire Liquor Commission to correct unintended consequences in the first section of the bill relating to non-profits. The second

section of the bill grants to the commission the authority to close down a licensee for a short period of time under certain high-risk situations and as a last resort, i.e. after sporting events bringing on riots in Durham. An adoption of rules will implement the process. The amended bill also redefines "beverage vendor" to include all manufacturers which sell beverages to wholesale distributors. The bill as amended also repeals RSA 178:16, V concerning the interest or control of wholesale distributors. Vote 13-0.

#### **Amendment (0985h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to liquor licenses and relative to sales of alcoholic beverages.

Amend the bill by replacing all after section 2 with the following:

3 Alcoholic Beverages; Definitions; Beverage Vendor. Amend RSA 175:1, X to read as follows:

X. "Beverage vendor" means an individual, partnership, limited liability company, or corporation, including any subsidiaries thereof, which sells beverages [~~manufactured in the United States~~] to wholesale distributors.

4 Repeal. RSA 178:16, V, relative to interest or control of wholesale distributor, is repealed.

5 Effective Date. This act shall take effect upon its passage.

#### **AMENDED ANALYSIS**

This bill:

I. Authorizes the liquor commission to suspend a liquor license temporarily during an emergency.

II. Clarifies the applicability of training requirements to one-day liquor license applicants.

III. Clarifies the definition of beverage vendor.

IV. Repeals limitations on ownership and control of wholesale distributors of alcoholic beverages.

#### **SB 368, relative to reinsurance. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation was introduced in the Senate at the request of the NH Insurance Department. The legislation is patterned after a model bill produced by the National Association of Insurance Commissioners (NAIC). The bill does several things in order to protect the interests of insured claimants, ceding insurers and the public generally. It allows credit to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance. It is allowed only when the reinsurer meets certain requirements such as 1) the assuming insurer is licensed to transact this type of business in New Hampshire; 2) the reinsurer makes certain filings in New Hampshire; 3) maintenance of a surplus for policyholders of not less than 20,000,000; 4) maintenance of a trust fund in a qualified financial institution in the United States; 5) certain filings regarding the trust are made with the Insurance Commissioner; and 6) the form of the trust has been approved in the state in which the trust is domiciled. Vote 11-0.

#### **Amendment (1084h)**

Amend RSA 405:48, II and III as inserted by section 1 of the bill by replacing them with the following:

II. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

III. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

#### **SB 369, relative to examinations of insurance companies by the insurance department. OUGHT TO PASS**

Rep. Donald H. Flanders for Commerce: The bill was introduced to amend the existing law (RSA 400-A: 37) concerning the conduct of examinations by the insurance department in order to conform to the National Association of Insurance Commissioner's (NAIC) model. The insurance department testified that the second part of the bill provides for confidentiality resulting from the examination with Paragraph 3 providing for immunity for any contractors engaged by the insurance department. Vote 11-0.

#### **SB 370, relative to the insurance rating law. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: The bill makes certain technical changes in New Hampshire's insurance rating laws. These corrections were made at the request of the New Hampshire Insur-

ance Department. As amended, a large commercial policyholder who is required to certify its eligibility under RSA 412:2, II (e) will no longer be required to use a state approval form. This change is made in both Sections 3 and 4 of the bill. Further, the bill deletes the word "accident" from the law as "accident" is a term used in motor vehicle filings which is covered elsewhere in the law. Due to other safeguards already in the law, the department recommends that large commercial insurers would be eligible to qualify with premiums of \$30,000, whereas the law today requires premium of \$100,000. Vote 11-0.

#### **Amendment (1135h)**

Amend RSA 412:2, II(e) as inserted by section 1 of the bill by replacing it with the following:

(e) Title insurance, *except as otherwise provided in RSA 416-A:17 and RSA 416-A:17-a*. Amend the bill by inserting after section 6 the following and renumbering the original sections 7 and 8 to read as 8 and 9, respectively:

7 New Section; Filing of Forms. Amend RSA 416-A by inserting after section 17 the following new section:

416-A:17-a Filing of Forms. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter within 30 days of the effective date of this section.

#### **SB 498-FN, relative to the regulation of debt adjustment services. OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: Over the past several years, the banking department has been methodically going through the statutes to update laws that regulate non-bank financial activities. We have recently passed updated regulations covering mortgage bankers, mortgage brokers and small loan companies. This bill updates RSA 399-D regulating debt adjustment services. The bill, as amended, provides for a licensing scheme, requires the posting of a bond, requires application and renewal fees, prescribes certain business practices, and grants to the Bank Commissioner the right to suspend and revoke licenses and to assess fines for non-compliance with the statute. The bill also grants rulemaking authority to the Commissioner. Vote 11-0.

#### **Amendment (1046h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Regulation of Debt Adjustment Services. RSA 399-D is repealed and reenacted to read as follows:

#### **CHAPTER 399-D DEBT ADJUSTMENT SERVICES**

399-D:1 Scope. For purposes of this chapter, debt adjustment services are conducted in this state whenever services are performed in this state or on behalf of a person located in this state.

399-D:2 Definitions. In this chapter:

I. "Branch office" means a business location within this state of a person required to be licensed under this chapter. Branch office does not include a person's principal office location.

II. "Commissioner" means the bank commissioner.

III. "Creditor" means a person who regularly extends credit that is subject to an interest or other charge or is payable, by written agreement, in more than 4 installments.

IV. "Debt adjustment" means receiving, for a fee or compensation and as agent of a debtor, money or evidences thereof for the purpose of distributing such money or evidences thereof among creditors in full or partial payment of obligations of the debtor.

V. "Debtor" means a person who owes or is obligated to another or others.

VI. "Licensee" means a person duly licensed by the commissioner under the provisions of this chapter.

VII. "Person" means an individual, corporation, partnership, limited liability company, association, joint stock company, trust, unincorporated organization, or any other entity.

VIII. "Principal office" means the main office location of a person required to be licensed under this chapter.

399-D:3 License Required.

I. Any person that, in its own name or on behalf of other persons, engages in the business of debt adjustment in this state or with persons located in this state shall be required to obtain a license from the banking department. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices.

II. The fact that a person is licensed or registered in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

399-D:4 Exceptions. The provisions of this chapter shall not apply to the following:

- I. Any attorney admitted to the practice of law in this state, when engaged in such practice.
- II. Any bank, fiduciary or financing or lending institution authorized to transact business in this state, which performs debt adjustment in the regular course of its principal business.
- III. Any title insurance or abstract company authorized to transact business in this state, while doing an escrow business.
- IV. Any person acting pursuant to any law of this state or of the United States or acting under the order of a court.

V. Any employee of a licensee when acting in the regular course of employment.

399-D:5 License Application; Requirements; Investigation.

I. No person shall engage in the business of debt adjustment without a license issued in accordance with the provisions of this chapter. Any person desiring to obtain such license shall file with the commissioner a verified application in writing, under oath, setting forth, if a sole proprietorship, the name and address of the person, the name under which he or she is doing business and the exact location and address of his or her office; if a corporation, partnership, association, limited liability company or other entity, the name, exact office location and address of the corporation, partnership, association, limited liability company or other entity, the exact office location of each of its New Hampshire branch offices, and the names and addresses of all officers, directors, partners, and owners thereof.

II. To be considered for licensing, each person, firm or corporation desiring to obtain such a license shall file with the banking department one verified application prescribed by the bank commissioner. At a minimum, the application shall be in writing, setting forth the primary business address of the applicant, the address of its principal office and all branch offices located or to be located within the state, and a list of the principal owners, officers, and directors of the applicant. Each application shall designate the name and address of the manager or person in charge at each licensed location and shall contain other information required by rules under this chapter. The applicant shall submit any other information that the bank commissioner may require. In addition:

(a) Each application shall be accompanied by a current financial statement, certified to by a certified public accountant or a public accountant, a nonrefundable license fee of \$100 for each office, and an investigation fee of \$50.

(b) Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner, consumer credit administration division.

(c) Each licensee shall furnish with his application a blank copy of the contract intended for use between the licensee and the debtor and shall notify the commissioner of all changes and amendments thereto.

(d) Each license issued under this chapter shall expire on December 31 next following its issuance unless sooner surrendered, revoked or suspended, but may be renewed as provided in this chapter.

(e) The application shall state that the names provided under paragraph I of this section include all persons, firms, or corporations who have a financial interest, directly or indirectly, in such business.

III. Every applicant for licensing under this chapter shall file with the commissioner, in such form as the commissioner prescribes by rule, irrevocable consent appointing the commissioner to receive service of any lawful process in any non-criminal suit, action or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or under any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. When any person, including a nonresident of this state, engages in conduct prohibited or made actionable by this chapter or by any rule or order under this chapter, and such person has not filed a consent to service of process under this section and personal jurisdiction over such person cannot otherwise be obtained in this state, that conduct shall be considered equivalent to such person's appointment of the commissioner to receive service of any lawful process. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

(a) The plaintiff, who may be the attorney general in a suit, action, or proceeding instituted by him or her, immediately sends a notice of the service and a copy of the process by registered mail to the defendant or respondent at the person's last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this paragraph is filed in the case on or before the return day of the process or within such further time as the court allows.

IV. Upon the applicant's filing of the complete application and payment of the required fee, the commissioner shall have, in accordance with RSA 541-A:29, up to 120 days to investigate and determine whether the applicant's financial resources, experience, personnel, and record of past or proposed conduct warrant the public's confidence and the issuance of a license.

399-D:6 Bond of Applicant.

I. Each applicant shall submit to the commissioner, with his or her application for a license, a bond, in such form as the commissioner shall prescribe, in the amount of \$25,000. The applicant shall be the obligor in such bond and an insurance company authorized to transact the business of fidelity and surety insurance in this state shall be the surety.

II. The bond shall run to the state of New Hampshire for the use of the state and of any person or persons who may have a cause of action by virtue of the activities of the applicant in debt adjustment. The bond shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this chapter and any regulation, order or directive issued hereunder, and he or she will well and faithfully perform the obligations and duties of all debt adjustment contracts into which he or she may enter, and will well and faithfully account for all funds entrusted to him or her by a debtor.

III. Each bond shall remain in effect until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Any surety may cancel a bond upon 30 days' written notice to the commissioner, but no such cancellation shall affect any liability which arises prior to the termination of such 30-day period. Upon the cancellation of a bond by a surety, the licensee shall file a new bond with the commissioner or the license shall be automatically suspended at the end of such 30-day period.

IV. Any debtor who may be damaged by the neglect, default, or wrongful act of a licensee or his or her agent may proceed on such bond against the obligor or surety thereon, or both, to recover damages. Any licensee, upon his or her own motion, may be made a party to any such action.

399-D:7 License Grant.

I. If the commissioner determines that the applicant meets the requirements of this chapter, the commissioner shall issue a license or licenses permitting the applicant to engage in the business of debt adjustment in accordance with the laws of this state.

II. No license shall be issued to any person whose principal place of business is located outside of this state, unless the person designates an agent residing within this state for service of process.

III. Any license fee required by this chapter shall be paid before a license shall become effective.

IV. Each license issued under the provisions of this chapter shall state the name and address of the principal office of the licensee and, if the license is a branch office license, the name and address of the branch office location for which the license is issued.

V. If a licensee is a person other than a natural person, the license issued to it shall entitle all officers, directors, members, partners, trustees, and employees of the licensed corporation, partnership, entity, or trust to engage in the business of debt adjustment; provided that one officer, director, member, partner, employee, or trustee of such person shall be designated in the license application as the individual to be contacted under the provisions of this chapter.

VI. If the licensee is a natural person, the license shall entitle all employees of the licensee to engage in the business of debt adjustment. For purposes of this paragraph, employee shall not include an independent contractor.

VII. A license issued under this chapter shall not be transferable or assignable between persons without the prior approval of the commissioner.

399-D:8 License Denial; Appeal.

I. Applicants may appeal a license denial in accordance with RSA 541-A and rules of the commissioner adopted thereunder.

II. Applicants may petition the banking department for a rehearing in accordance with RSA 541 if the decision in an appeal conducted pursuant to paragraph I affirms a denial of a license application.

399-D:9 License Term; Renewal.

I. Each license shall remain in force until it has been surrendered, revoked, suspended, or expires in accordance with the provisions of this chapter. Each license shall expire on December 31 of each calendar year.

II. If a person holds a valid license under this section and is in compliance with this chapter and the rules thereunder, the licensee may renew the license by paying the required fee to the banking department on or before December 1 for the ensuing year that begins on January 1. Failure to renew the license shall result in the license terminating on December 31.

III. A renewal fee of \$100 for the principal office license and for each branch office license shall be submitted with the application for license renewal.

IV. No application for renewal shall be denied without reasonable cause and the right of appeal pursuant to RSA 541-A and RSA 541.

#### 399-D:10 License Posting; Change of Location.

I. It shall be unlawful to engage in the business of debt adjustment without a conspicuously posted license in the licensee's principal place of business within this state and in each of the licensee's branch offices within this state.

II. No licensee shall change his or her location unless authorized by the commissioner.

#### 399-D:11 Advertising.

I. No person shall advertise, print, display, publish, distribute, broadcast, or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for debt adjustment under the provisions of this chapter which is false, misleading, or deceptive. Any reference to the amount of a debt shall refer to the original principal amount. Any statement of the amount of an installment, or the rate or amount of interest charges required for any debt, shall comply with the provisions of the federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq.

II. The banking department may review advertising files during the course of any examination or investigation undertaken in accordance with this chapter.

399-D:12 Trade Name. No licensee shall conduct the business of a debt adjuster under a trade name or other name which is different from the name stated in its principal office license or branch office license without immediately notifying the commissioner, who shall amend the license accordingly.

#### 399-D:13 License Denial, Revocation, or Suspension.

I. The commissioner may issue an order requiring a person to whom any license has been granted to show cause why the license should not be revoked. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license pending final determination of any order to show cause, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the applicant or licensee that it has been entered and of the reasons for the order and that within 10 days after receipt of a written request the matter will be scheduled for hearing. Delivery of such order shall be by hand or registered mail at the principal office of the licensee. If the person fails to request a hearing or respond to the show cause order within 30 calendar days of receipt of the order, the person shall be deemed to be in default, and the penalties requested shall be imposed. The commissioner may by order, after notice and opportunity for hearing, assess penalties and deny, refuse to renew, suspend, or revoke a license if it is in the public interest and the applicant or licensee, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant or licensee:

(a) Has violated any provision of this chapter or rules thereunder;

(b) Has not met the standards established in this chapter;

(c) Has filed an application for licensing which as of its effective date, or as of any date after the filing in the case of an order denying of the filing, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(d) Has made a false or misleading statement to the commissioner or in any reports to the commissioner;

(e) Has made fraudulent misrepresentations, or has circumvented or concealed, through whatever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to a person under the provisions of this chapter;

- (f) Has failed to supervise its agents, managers, or employees;
- (g) Is the subject of an order entered within the past 5 years by this state, any other state, or federal regulator denying, suspending, or revoking licenses or registration;
- (h) Is permanently, preliminarily, or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of debt adjustment or collection activities;
- (i) Is not qualified on the basis of such factors as experience, knowledge, and financial integrity;
- (j) Has engaged in dishonest or unethical practices in the conduct of the business of debt adjustment;
- (k) Has violated applicable federal laws or regulations thereunder;
- (l) Has been convicted of a crime involving moral turpitude;
- (m) Has maintained a continuous course of unfair conduct;
- (n) Is insolvent, or has filed in bankruptcy or receivership, or made assignments for the benefit of creditors; or
- (o) For other good cause shown.

II. The banking department may, upon due notice and opportunity for a hearing, suspend any license for a period not exceeding 30 days, pending investigation by the banking department.

III. Any license revocation, license suspension, or unfavorable action by the banking department on a license shall comply with the provisions of RSA 541-A:30.

IV. An aggrieved licensee may, pursuant to RSA 541-A:30 and RSA 541, appeal unfavorable action by the banking department.

V. The banking department may take action for immediate suspension of a license, pursuant to RSA 541-A:30, III.

VI. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act on behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual. Each licensee shall be responsible for supervision of its branch offices and for the acts of any or all of its employees while acting as its agent if such licensee, after actual knowledge of said acts, retained the benefits, proceeds, profits, or advantages accruing from said acts or otherwise ratified said acts.

VII. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a debt adjuster, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application. The commissioner may deem abandoned and withdraw any application for licensure made pursuant to this chapter, if the applicant fails to respond in writing within 180 days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

#### 399-D-14 Fees of Licensee.

I. The fees of the licensee shall be agreed upon in advance and stated in the contract, and provision for settlement in case of cancellation or prepayment shall be clearly stated in the contract. Fees shall be amortized equally each month over the length of the contract and no licensee shall be entitled to any fee until the contract has been in full force for 30 days and thereafter the monthly amortized amount may be applied to charges at 30-day intervals, while the contract is in full force and effect, except in the event of prepayment or cancellation. No licensee shall be entitled to any fee against the debtor, upon any contract, until the debt adjustment program is arranged and approved by the debtor. A contract shall not be effective until a debtor has made a payment to the licensee for distribution to his creditors. The licensee may request a deposit not to exceed \$25 upon the signing of the contract. Said deposit shall be held in escrow by the licensee. In the event that the debtor fulfills the conditions of the contract, the deposit shall be returned. In the event that the debtor fails to make payment in accordance with the contract for a period in excess of 60 days, the deposit shall be forfeited.

II. A licensee shall not receive any fee unless he or she has the written consent of such number of creditors as hold obligations representing at least 25 percent of the total amount of indebtedness and 25 percent of the total number of the creditors listed in the licensee's contract with the



debtor, or unless a like number of creditors have accepted a distribution of payment. Creditors or their attorneys shall have access to all records relative to such consent for verification.

III. The fees received by a licensee shall be based on the amount required to pay indebtedness and shall not exceed:

- (a) 10 percent when the plan of payment is for a period of 10 months or less;
- (b) 12 ½ percent when the plan of payment is for a period of more than 10 months but less than 18 months; and
- (c) 15 percent when the plan of payment is for a period of 18 months or more.

IV. In the event of prepayment of the listed debts, or cancellation by the debtor upon 30 days' written notice to the licensee, or cancellation by the licensee after willful default for more than 30 days by the debtor, and if the licensee has performed all of the services required by this chapter and by the terms of the contract, the licensee shall be entitled to a cancellation charge which is 5 percent of that portion of the agreed service charge which is due and unpaid for the unexpired term of the contract as of the time of such prepayment or cancellation, but in no event more than \$50. Within 10 days of cancellation, the licensee shall notify the creditors of the debtor or their attorneys in writing of the cancellations.

399-D:15 Licensee's Duties.

I. Each licensee shall:

(a) Keep complete and adequate records during the term of the contract and for a period of 7 years from the date of cancellation or completion of the contract with each debtor. The records shall contain complete and accurate information regarding the contract, payments, disbursements and charges, and shall be open to inspection by the commissioner and the commissioner's duly appointed agents during normal business hours.

(b) Make remittances to creditors within 10 days after receipt of any funds, less prorated fees, unless the reasonable payment of one or more of the debtor's obligations requires that such funds be held for a longer period to accumulate a sum certain.

(c) Furnish the debtor with a written statement of his or her account every 90 days, and at the termination or cancellation of the contract and with a verbal accounting at any time the debtor may request it during normal business hours.

II. No licensee shall accept an account unless a written and thorough budget analysis indicates that the debtor can reasonably meet the requirements indicated by the budget analysis.

III. No licensee shall enter into a contract for a longer period of time than is reasonable and consistent with the budget analysis, unless a written statement by the debtor specifically indicates the debtor's desire to make lower payments over the extended period, at a greater fee, as provided in RSA 399-D:14, III.

IV. If a compromise of a debt is arranged by the licensee with any one or more creditors, the debtor shall have the full benefit of such compromise.

V. A licensee shall submit written notification to the banking department of the name and address, and such other information as the commissioner may require by rule, of each new stockholder or other person owning 10 percent or more of the licensee, and of each new member, partner or trustee of the licensee, no later than 30 days after the change.

VI. Licensees shall provide written notice to the commissioner of any proposed change in location or proposed closing of any licensed office no later than 10 business days before the effective date of such change of location or closing.

VII. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that required the filing of the amendment.

VIII. Persons subject to or licensed under this chapter shall abide by applicable federal laws, and regulations including the federal Truth in Lending Act, and the laws, orders, and rules of this state. Any violation of such law, rule, or order shall be a violation of this chapter.

399-D:16 Prohibited Acts. No licensee shall:

I. Purchase from a creditor any obligation of a debtor.

II. Operate as a collection agent and as a licensee for the same debtor's account.

III. Execute any contract or agreement to be signed by the debtor unless the contract or agreement is fully and completely filled in and finished.

IV. Receive or charge any fee in the form of a promissory note or other promise to pay, or receive or accept any wage assignment, mortgage or other security for any fee, either as real or personal property.

V. Pay any bonus or other consideration to any person for the referral of a debtor to his or her business or accept or receive any bonus, commission or other consideration for referring any debtor to any person for any reason.

VI. Advertise, display, distribute, broadcast or televise, or permit to be displayed, advertised, distributed, broadcasted or televised, his or her services, rates or terms in any manner whatsoever which makes any false, misleading, or deceptive statement or representation with regard to the services to be performed by the licensee or the charges to be made therefore.

399-D:17 Licensee not to Perform Legal Services or be Associated with Attorney. Nothing contained in this chapter shall be construed to authorize any licensee to engage in and no licensee shall engage in the practice of law; offer to perform or perform any legal service; or offer to give, or give any legal advice. No licensee shall by any means represent or imply that he or she is authorized or competent to furnish legal advice or perform legal services; assume authority on behalf of any creditor or debtor or accept a power of attorney authorizing him or her to employ or terminate the services of an attorney or to arrange the terms of or compensate for such services; communicate with any debtor or creditor or any other person in the name of an attorney or upon the stationery of an attorney; prepare any form or instrument which only an attorney is authorized to prepare; be associated, directly or indirectly, with any attorney, borrow money from or pledge assets to any attorney, or refer any debtor to any particular attorney.

399-D:18 License Surrender.

I. A licensee who ceases to engage in the business of a debt adjuster at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or certified mail to the bank commissioner within 15 calendar days of such cessation, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The bank commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

II. Failure to comply with the provisions of this chapter and rules or orders adopted under this section, shall be cause for denial of future license applications and the imposition of penalties under RSA 399-D:24.

III. Withdrawal of the surrendered license shall become effective 30 days after receipt by the commissioner of the license or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the withdrawal is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, the withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and the withdrawal automatically becomes effective, the commissioner may nevertheless institute a revocation or suspension proceeding under RSA 399-D:13 within one year after the withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was effective.

399-D:19 Consumer Inquiries.

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 30 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 60 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

(a) Make appropriate corrections in the account of the consumer and transmit to the consumer and the banking department written notification of such corrections, including documentary evidence thereof; or

(b) Transmit a written explanation or clarification to the consumer and the banking department which sets forth, to the extent applicable, the reasons why the licensee believes its actions are correct, including copies of documentary evidence thereof.

II. A licensee who fails to respond to consumer complaints within the time prescribed by this section shall pay to the commissioner the sum of \$50 for each day such response is overdue. For purposes of this section, the date of transmission shall be the date such response is received by the commissioner.

III.(a) Licensees which, because of extenuating circumstances beyond the control of the licensee, are unable to comply with the time limits prescribed in this section, may make written request to the commissioner for a waiver of such time frames. Waivers shall not be granted or considered unless the request for the waiver:

(1) Is received by the banking department within 50 days following the licensee's receipt of the complaint.

(2) Specifies the reason for the request.

(3) Specifies a date certain by which the licensee shall comply with the provisions of this section.

(b) Requests for waivers shall be either granted or denied within 5 days of receipt by the banking department.

IV. In any investigation to determine whether a person has violated or is about to violate this chapter or any rule or order under this chapter, upon the commissioner's finding that the person violated this chapter or a rule or order under this chapter, or that the person charged with the violation is in default, the commissioner shall be entitled to recover the cost of the investigation, in addition to any other penalty provided for under this chapter.

399-D:20 Contract with Debtor. Each licensee shall make a written contract with a debtor, and immediately furnish the debtor with a true copy thereof. Such contract shall set forth the complete list of the debtor's obligations to be adjusted, a complete list of the creditors holding such obligations, the total charges agreed upon for the services of the licensee and the beginning and expiration date of the contract. No licensee shall enter into a contract in which the debtor's obligations will not be discharged within 24 months, exclusive of contractual debts which exceed the 24-month period.

399-D:21 Separate Bank Account for Benefit of Creditors; Books and Records.

I. Each licensee shall maintain a separate bank account for the benefit of debtors in which all payments received from debtors for the benefit of creditors shall be deposited within 24 hours of receipt thereof and in which all payments shall remain until a remittance is made to either a debtor or a creditor.

II. Books and Records:

(a) Every licensee shall keep and use in his business, books, accounts, and records which will enable the commissioner to determine whether such licensee is complying with the provisions of this chapter and with the regulations of the commissioner.

(b) Every licensee shall preserve such books, accounts, and records for at least 7 years after making the final entry on any transaction recorded therein.

399-D:22 Examinations and Investigations.

I. The commissioner shall examine the condition and affairs of each licensee at least every 18 months.

II. The banking department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this chapter and the rules adopted under it and with the federal acts and regulations to which it is subject, including the Consumer Credit Protection Act, 15 U.S.C. 1601 et seq. In determining compliance, the banking department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. The banking department shall have the power to subpoena witnesses and administer oaths in any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to its investigation.

III. For the purpose of discovering violations of this chapter, the banking department may examine, the records of any licensee and of any person by whom a debt adjustment contract is made, whether such person shall be licensed to act, or claim to act, as principal, agent, or other representative, or under, or without the authority of this chapter; and for that purpose, the banking department shall have access to the books, papers, records, files, and vaults of all such persons. The banking department shall also have authority to examine, under oath, all persons whose testimony it may require relative to such contracts or business.

IV. The licensee shall maintain such records as will enable the banking department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted under it, with the provisions of applicable federal laws and regulations. The affairs and records of every licensee shall be subject at any time to such periodic, special, regular, or other examination by the banking department, with or without notice to the licensee. All books, papers, files, related material, and records of assets of the licensee shall be subject to the banking department's examination. Such records shall be maintained and made available for examination at the licensee's principal office or its branch office location or the office of its New Hampshire agent for a period of at least 7 years, the last 3 years of which must be in a readily accessible location.

V. Licensees that maintain their files in another state are required to return such files to their New Hampshire office or if there is no office in New Hampshire, to the office of their New Hampshire agent as named in the license application as amended. Such licensees are required to return all files and records no later than 21 calendar days after being requested to do so by the banking department.

VI. Any agent of the banking department may make a thorough examination into the business affairs of each licensee and shall report any violations of law, rule, or standard business practice to the banking department.

VII. The expense of such examination shall be chargeable to and paid by the licensee. The procedure for such payment shall be the same as for payments by institutions for the cost of examinations under RSA 383:11.

VIII. Every person being examined and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or his or her examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination.

IX. Upon receipt of a written report of examination, the licensee shall have 30 days or such additional reasonable period as the commissioner for good cause may allow, within which to review the report, recommend any changes and set forth in writing the remedial course of action which the licensee will pursue to correct any reported deficiencies outlined in the report.

X. If so requested by the person examined, within the period allowed in paragraph IX, or if deemed advisable by the commissioner without such request, the commissioner shall hold a closed hearing relative to the report and shall not file the report in the department until after such closed hearing and issuance of his or her order thereon. If no such closed hearing has been requested or held, the examination report, with such modifications, if any, as the commissioner deems proper, shall be accepted by the commissioner and filed upon expiration of the review period provided for in paragraph IX. The report shall be accepted and filed within 6 months after the final hearing thereon.

XI. All reports pursuant to this section shall be absolutely privileged and although filed in the department as provided in paragraph X shall nevertheless not be for public inspection. The comments and recommendations of the examiner shall also be deemed confidential information and shall not be available for public inspection.

#### 399-D:23 Violations.

I. The banking department may issue and serve upon any licensee or person over whom it has jurisdiction a complaint setting forth charges whenever the department is of the opinion that the licensee or person is violating or has violated any provision of this chapter or any rule or order under this chapter.

II. The banking department may issue a cease and desist order against any licensee or person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter. Delivery of such order shall be by hand or registered mail at the principal office of the licensee or other person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner within 20 days after the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent. All hearings shall comply with RSA 541-A. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be found in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be found to be true. If the person to whom a cease and desist order is issued

fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be found in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until modified or vacated by the commissioner, for good cause shown.

399-D:24 Penalty.

I. A person who violates any provision of this chapter shall be guilty of a misdemeanor for each violation if a natural person, or guilty of a felony if any other person.

II. Any person who knowingly violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to suspension or revocation of any registration or license, or imposition of an administrative fine not to exceed \$2,500 for each violation in lieu of or in addition to suspension or revocation. Each of the acts specified shall constitute a separate violation.

III. Any person who negligently violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$1,500 for each violation, in lieu of or in addition to suspension or revocation. Each of the acts specified shall constitute a separate violation.

IV. Any person who, either knowingly or negligently, violates any provision of this chapter may, upon notice and opportunity for hearing, and in addition to any such other penalty provided for by law, be subject to suspension, revocation or denial of any registration or license, including forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and each such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

V. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to suspension, revocation, or denial of any registration or license, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

399-D:25 Rulemaking.

I. Pursuant to RSA 541-A, the commissioner may adopt rules necessary to the administration and enforcement of this chapter. Such rules shall be consistent with the provisions of this chapter, and may include, but shall not be limited to, the following:

- (a) The application form for licensees.
- (b) The form of license issued to licensees.
- (c) Annual reports.
- (d) Personal disclosure statements.

II. The commissioner may prepare, alter, or withdraw such forms as are necessary to comply with the provisions of this title.

III. The commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.

IV. The commissioner may, for good cause shown, abate all or a portion of delinquency penalties assessed under this chapter.

V. All actions taken by the commissioner pursuant to this chapter shall be taken only when the commissioner finds such action necessary or appropriate to the public interest or for the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title.

399-D:26 Reference to Bond or State Approval Prohibited. No licensee shall use, attempt to use, or make reference to, either directly or indirectly, any word or phrase which states or implies that he or she is bonded, approved, bonded by the state, or approved by the state.

### 399-D:27 Records and Filings.

I. A document is filed when it is received by the commissioner. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.

II. Electronic filings are filed when received by the commissioner, are prima facie evidence that a filing has been duly authorized and made by the signatory on the application or document, are admissible in any civil or administrative proceeding under this chapter, and are admissible in evidence in accordance with the rules of superior court in any action brought by the attorney general under this chapter.

III. A licensee may maintain its records in electronic format if, upon request, the licensee provides the commissioner with:

(a) A full explanation of the programming of any data storage or communications systems in use.

(b) Information from any books, records, electronic data processing systems, computers or any other information storage system in the form requested by the commissioner.

### 399-D:28 Reporting and Recordkeeping Requirements.

I.(a) Each licensee shall file, under oath, an annual report with the commissioner on or before February 1 of each year concerning its business and operations for the preceding calendar year or license period ending December 31 in the form prescribed by the commissioner. A separate annual report shall be filed for each type of license held by the licensee.

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report, as required in paragraph I(a), notwithstanding the fact that such person is not licensed on the date that the report is due.

(c) Each licensee shall also file, under oath, its financial statement with the commissioner within 60 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles and shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and note disclosures. If the financial statement is not audited, a certification statement shall be attached and signed by a duly authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

II. The commissioner shall publish an analysis of the information required in the licensee's annual report as part of the commissioner's annual report.

III. Any licensee failing to file either the annual report or the financial statement required by this section within the time prescribed shall pay to the commissioner a penalty of \$25 for each calendar day the annual report or financial statement is overdue up to a maximum penalty of \$2,500 per report or statement, and shall be subject to suspension or revocation of its license.

IV. In addition to the annual report and financial statement required by this section, the commissioner may require such regular or special reports as the commissioner deems necessary to the proper supervision of licensees under this chapter.

V. A licensee who files an annual report under this section which fails to disclose or materially misstates debt contracts made during the reporting year may, in addition to any other penalty provided by law and after notice and opportunity for hearing pursuant to RSA 541-A, be subject to a fine of not more than \$1,000 and to license revocation or suspension.

VI. Each licensee shall keep and use such books and accounting records as are in accord with sound and accepted accounting practices and which enable the commissioner to determine whether the licensee is complying with this chapter.

2 Effective Date. This act shall take effect 90 days after its passage.

## **SB 500-FN, relative to certain procedures of financial institutions. OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: This bill was introduced in the Senate at the request of the banking department. It updates the language of several statutes pertaining to supervision and regulation of banks. These changes bring the statutes into conformity with current banking practices. The bill also updates language concerning the disposal of records and makes a modest change in the law concerning attendance at meetings by directors. Vote 11-0.

**Amendment (1007h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Change in Control of Financial Institution; Application Fee. Amend RSA 383:9-h to read as follows:

383:9-h Change in Control of Nondepository Financial Institution. No change in control of a nondepository financial institution shall occur without the prior approval of the bank commissioner. The term "change of control" shall mean the direct or indirect acquisition by a person or group of persons acting in concert of 10 percent or more of the beneficial ownership or control of the voting shares. The person or group seeking to acquire control of the nondepository financial institution shall submit an application *and a \$500 application fee* to the bank commissioner for approval which shall contain such financial, business, experience, and other information as the bank commissioner shall require to determine whether such person or group is suitable to exercise control of a nondepository financial institution. Upon receipt of a complete application, the bank commissioner may hold a hearing on such application and shall make a decision within 60 days after receipt of the application.

2 Trustees, Directors, and Officers; Limitation; Credit Union Added. Amend RSA 384:5-a, I(f) to read as follows:

(f) Mutual savings and guaranty savings banks[-];

(g) *Credit union.*

3 Removal by Bank Commissioner; Financial Institution. Amend RSA 384:6 to read as follows:

384:6 Removal by Bank Commissioner. Whenever, in the opinion of the bank commissioner, any officer, trustee, or director of a [~~savings bank, state bank, guaranty savings bank or trust company~~] *financial institution or financial institution holding company* shall have continued to violate any law relative thereto, or shall have continued unsafe or unsound practices in conducting the business of said [~~bank~~] *financial institution or financial institution holding company*, after having been warned in writing by the commissioner to discontinue such violations of law or such unsafe or unsound practices, he may cause notice to be served upon such officer, trustee, or director to appear before him to show cause why he should not be removed from office. A copy of such order shall be sent by registered mail to each trustee or director of the [~~bank~~] *financial institution or financial institution holding company* affected. If, after granting such officer, trustee, or director a reasonable opportunity to be heard, the commissioner finds that he has continued to so violate the law, or has continued unsafe or unsound practices after having been warned, the commissioner may, with the approval of 2 persons of good standing in the banking business, to be named by the governor upon the request of the bank commissioner, order that such officer, director, or trustee be removed from office. A copy of such order shall be served upon such officer, trustee, or director and upon the [~~bank~~] *financial institution or financial institution holding company* of which he is an officer, trustee, or director whereupon he shall cease to be an officer, trustee, or director of such [~~bank~~] *financial institution or financial institution holding company*: Provided that such order and the findings of fact upon which it is based shall not be made public or disclosed to any one except the officer, trustee, or director involved and the trustees or directors of the [~~bank~~] *financial institution or financial institution holding company* affected, otherwise than in connection with proceedings for a violation of this section. No such officer, trustee, or director removed from office as herein provided shall, without the consent of the bank commissioner, participate in any manner in the management or operation of said [~~bank~~] *financial institution or financial institution holding company*. Any person so removed from office may, with the approval of the trustees or directors of the [~~bank~~] *financial institution or financial institution holding company* affected expressed by majority vote in which he shall not participate, appeal by petition to the supreme court within 30 days from the date of the order of removal. Upon hearing, after such notice as the court may order, the burden of proof shall be upon the petitioner to show that the order of removal is clearly unreasonable or unlawful, and all findings of the bank commissioner upon all questions of fact properly before him shall be deemed to be prima facie lawful and reasonable and the order shall not be set aside or vacated except for errors of law unless the court by a clear preponderance of the evidence before it finds that such order is unjust or unreasonable. Pending decision of the supreme court, the order of removal shall continue in effect.

4 Interest on Escrow Accounts; "Regular" Added. Amend RSA 384:16-c to read as follows:

384:16-c Interest on Escrow Accounts. Any bank which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on

property secured by real estate mortgages shall credit each such escrow account with interest at a minimum rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on *regular* savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each bank subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

5 Escrow Accounts of Mortgage Companies; "Passbook" Removed. Amend RSA 384:16-e to read as follows:

384:16-e Escrow Accounts of Mortgage Companies. Any company which is in the business of or customarily makes loans for the purpose of financing the acquisition of single family homes and which is not subject to the requirements of RSA 384:16-c and which requires or accepts moneys for deposit in escrow accounts maintained for the payment of taxes or insurance premiums related to loans on single family homes secured by real estate mortgages on property located in New Hampshire shall credit each such escrow account with interest on all existing and future escrow accounts at a rate set for a 6-month period by the bank commissioner on February 1 and August 1 of each year which shall be one percent below the mean interest rate paid by New Hampshire chartered banks on regular ~~[passbook]~~ savings accounts. The commissioner shall announce such rate to applicable New Hampshire trade associations. Each company subject to the provisions of this section shall inform itself of such rate by contacting applicable New Hampshire trade associations or the banking department.

6 Annual Audit; Engagement Letter Requirement Removed. Amend RSA 384:43, IV to read as follows:

IV. Each financial institution shall direct its auditor to provide the bank commissioner with a copy of its ~~[engagement letter, and the subsequent]~~ audit report, within 60 days after each is made available to the financial institution. Reports on the review of internal audit program shall be submitted in a format prescribed by the commissioner in a rule adopted pursuant to RSA 541-A. All such reports, memoranda, and correspondence remain the property of the individual financial institution.

7 Branch Offices; Board Replaced by Commissioner. Amend RSA 384-B:2 to read as follows:

384-B:2 Branch Offices. No bank or officer, director, agent, or employee thereof shall transact any part of its usual business of banking at any branch office except as follows:

I. With the approval of the ~~[board]~~ *commissioner*, any bank with its principal office within the state of New Hampshire may establish and operate one or more branch offices in any town within the state. The ~~[board]~~ *commissioner* shall not grant any application for a branch office if the dollar volume of the total deposits, time, savings, and demand of the applicant bank is greater than 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ *commissioner* on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing the application; nor if the applicant bank is an affiliate of a bank holding company which with all its affiliates then holds a dollar volume of total deposits, time, savings, and demand greater than 30 percent of the dollar volume of total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the ~~[board]~~ *commissioner* on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

I-a. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more mobile branch offices. A mobile branch office shall consist of a motor vehicle specifically designed to conduct a banking business which is moved to one or more predetermined locations in any town or towns within or without the state on a predetermined schedule. A mobile branch office may conduct any banking business that is permitted for a stationary branch. A mobile branch office is a "branch office" as defined in RSA 384-B:I, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation, location, and schedule of mobile branch offices.

I-b. With the approval of the bank commissioner and subject to any rules adopted by the bank commissioner pursuant to RSA 384-B:2-b, any bank may establish and operate one or more de-



defined service branch offices. A defined service branch office shall consist of an office designed to conduct a banking business which may be operated on a predetermined schedule for fewer than the normal hours of operation of the bank or for designated days and times. A defined service branch office is a "branch office" as defined in RSA 384-B:1, III and shall be subject to any and all applicable requirements relating thereto. The bank commissioner shall adopt rules, pursuant to RSA 384-B:2-b, regulating the operation and schedule of defined service branch offices.

I-c. For purposes of this section "bank" shall mean:

(a) A "bank" or "national bank" as defined in this chapter; and

(b) An "out-of-state bank" as defined in RSA 384:57, V which has merged with such a bank or a national bank pursuant to RSA 384:59.

II. With the approval of the [board] **commissioner**, the resulting bank, after a consolidation as herein defined, may operate as a branch office or offices the business of any other bank acquired in such consolidation, at any location in the same town or towns in which such business was formerly carried on, wherever in the state such town or towns may be; provided, however, that the dollar volume of the total deposits, time, savings, and demand of the remaining bank at the time of filing its application for such branch office or offices does not exceed 30 percent of the dollar volume of the total deposits, time, savings, and demand of all banks, national banks, and federal savings and loan associations in this state as determined by the [board] **commissioner** on the basis of the most recent annual deposit reports of the Federal Deposit Insurance Corporation available at the time of filing of the application.

III. Written applications for branch offices shall be submitted by the bank, in the first instance, to the commissioner and shall be verified under oath and made upon forms which may be prescribed by the commissioner for the purpose with all the information required by such form fully set forth thereon, including the types of service to be offered at such branch office. Each application shall be accompanied by a fee of \$1,500 in the case of a new branch and one single fee of \$1,500 for the composite of all branches. The [commissioner] **department** shall investigate and examine each application [~~and if the commissioner finds that it is duly completed, the commissioner shall then refer the application to the board for consideration~~]. A notice stating the date before which objections may be filed shall then be published by the petitioner in such form as the [board] **commissioner** may order. Any interested person or corporation may, within the time specified, file with the board a statement of objection to the granting of such application. The [board] **commissioner** may, upon request of any interested person or corporation, or at the [board's] **commissioner's** own discretion, order a public hearing, or may approve said application without a hearing. If a public hearing is to be held, the petitioners shall cause to be published such notices as the [board] **commissioner** may order. Said hearing shall be held at the time and place fixed by the [board] **commissioner**. The [board] **commissioner** shall keep a permanent verbatim record of all such evidence. [~~The commissioner shall serve as chairperson of the board;~~] The [board] **commissioner** may prescribe reasonable procedural rules to govern the proceedings[~~, and it may be convened to consider any pending business on call of the commissioner~~]. There shall be no refund allowed on any application fee once it has been filed. In addition to the application fee, each applicant for a branch office shall be obligated to pay the reasonable cost of processing, hearing and deciding each such application, as assessed by the [board] **commissioner**, which cost may be collected by the commissioner in an action of debt unless paid within 30 days after demand. Sums collected under this section shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the bank commissioner.

IV. In making the decision on each application, the [board] **commissioner** shall take into consideration the following factors:

(a) The financial history and condition of the bank or banks concerned including the adequacy of its or their capital funds;

(b) Its or their prospects; and

(c) The character of the management.

V. The [board] **commissioner** shall render a decision granting or denying each application in writing and shall maintain a file of all such approvals or denials [~~at the banking department~~] and shall forthwith furnish a certified copy thereof to the applicant bank. [~~No application shall be granted except upon the affirmative vote of a majority of members of the board;~~] Full power is delegated to the [board] **commissioner** to grant a particular application upon such reasonable con-

ditions, including limitations on the scope of service which may be offered and given, consistent with the general purposes of this chapter and sound banking principles as the [board] *commissioner* may determine and set forth in the decision. The authority derived from an application which has been granted in whole or upon conditions shall lapse and terminate unless business is actually commenced thereunder not later than one year after the date of the [board's] *commissioner's* decision; provided, however, that the [board] *commissioner*, for good cause shown, may extend the time after which such authority shall lapse. Rehearings of and appeals from decisions of the [board] *commissioner* shall be governed by RSA 541.

8 Limited Liability Company. Amend RSA 386-A:1-a to read as follows:

386-A:1-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a guaranty savings bank may be organized as a limited liability company. A bank organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity, provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the banking statutes shall also include a limited liability company. A bank organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a bank organized as a corporation. ~~[Any manager or senior executive officer of a bank organized as a limited liability company who exercises significant influence over, or participates in, major policymaking decisions shall be subject to the same duties and liabilities as pertain to directors, trustees, and senior executive officers of a bank organized as a corporation.]~~ *All managers and employees of a bank organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a bank organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the banking statutes shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instruments of a bank either chartered or operating as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed "incorporated" for purposes of federal deposit insurance.*

9 Name and Charter Powers. Amend RSA 388:14 to read as follows:

388:14 Name and Charter Powers. The bank resulting from a consolidation under the provisions of this chapter may adopt the charter of either of the consolidating banks with such change of name as may be desirable. Any proposal for such adoption of charter and change of name shall be set forth in the petition filed under RSA 388:1 and 388:8 and shall become effective upon approval thereof by the bank commissioner ~~[and the attorney general or assistant attorney general]~~, and filing in the office of the secretary of state together with the payment of a fee of \$5.

10 Record of. Amend RSA 386-A:15 to read as follows:

386-A:15 Record of. Thereupon the certificate shall be filed in the office of the secretary of state, who, upon payment of a fee ~~[equal to 1/10 of one percent of the authorized capital debentures, special deposit, or capital stock of the corporation as set forth in the articles of agreement]~~ *equal to the fee charged by the secretary of state to business corporations under RSA 293-A* shall cause the certificate with the indorsement thereon, to be recorded.

11 Approval of Petition; Filing With Secretary of State. Amend RSA 386-A:29, II to read as follows:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and that the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee ~~[equal to 1/10 of one percent of any increase in its authorized capital debentures, capital stock or special deposits provided for by such amendment]~~ *equal to the fee charged by the secretary of state to business corporations under RSA 293-A*. The secretary of state shall thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said

amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be \$25.

12 New Section; Limited Liability Company. Amend RSA 392 by inserting after section 2 the following new section:

392:2-a Limited Liability Company. Notwithstanding RSA 304-C:7, I or any other provision of law to the contrary, a trust company subject to the regulation of the bank commissioner may be organized as a limited liability company. A trust company organized as a limited liability company shall be subject to the provisions of state law applicable to such type of entity; provided, however, any filing required to be made with the secretary of state shall be made instead with the bank commissioner. Any reference to a corporation in the statutes governing trust companies shall also include a limited liability company. A trust company organized as a limited liability company shall be subject to all of the same laws and regulations that relate to a trust company organized as a corporation. All managers and employees of a trust company organized as a limited liability company shall be subject to the same duties and liabilities as pertain to directors, trustees, and employees of a trust company organized as a corporation. Any reference to corporations, directors, officers, stockholders or other like terms used to describe corporations in the statutes governing trust companies shall be construed to apply in the same manner to limited liability companies, managers, employees, members or other like terms used to describe limited liability companies unless the context otherwise requires. The organizational instruments of a trust company chartered as a limited liability company shall satisfy the requirements of the Federal Deposit Insurance Corporation in order to be deemed "incorporated" for purposes of federal deposit insurance.

13 Record of. Amend RSA 392:17 to read as follows:

392:17 Record of. Thereupon said certificate shall be filed in the office of the secretary of state, who, upon payment of a fee ~~[equal to 1/10 of one percent of the capital stock of said corporation as set forth in said articles]~~ *equal to the fee charged by the secretary of state to business corporations under RSA 293-A*, shall cause the same, with the indorsement thereon, to be recorded.

14 Disposal of Papers; Holding Period Removed. Amend RSA 383:17 to read as follows:

383:17 Disposal of Papers. The commissioner may destroy ~~[at the end of 6 years from the time of filing;]~~ any records, reports, or miscellaneous papers filed in his office which, in his opinion, are no longer of any value to the state.

15 Participation in Meetings; "Trust Company" Changed to "Financial Institution". Amend RSA 384:7-b to read as follows:

384:7-b Participation in Meetings. Unless the charter or bylaws provide otherwise, a board of directors or trustees may permit any or all directors or trustees to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all of the directors or trustees participating may simultaneously hear each other during the meeting. A director or trustee participating in a meeting by this means is deemed to be present in person at the meeting. However, a director or trustee shall be physically present at a majority of the meetings such director or trustee attends. If any member of the board of directors of a nondepository ~~[trust company]~~ *financial institution* resides outside of the state of New Hampshire, the board may permit such out-of-state director to be physically present at a lesser number of meetings, if such arrangement is approved in writing by the bank commissioner, based upon a finding that the safety and soundness of such ~~[trust company]~~ *financial institution* will not be impaired by such less frequent physical presence.

16 Repeal. The following are repealed:

I. RSA 386-B:9, VII, relative to an exemption for the directors or trustees of certain financial institutions from the responsibilities of directors, trustees and officers.

II. RSA 387:19, relative to safe deposit business buildings.

III. RSA 392:21, relative to the payment of par value and surplus before the issue of trust company stock.

17 Effective Date. This act shall take effect upon its passage.

**SB 318**, relative to the applicability of driving while intoxicated prohibitions. **INEXPEDIENT TO LEGISLATE**

Rep. George D. Winchell for Criminal Justice and Public Safety: This bill would amend RSA 265:144 by adding a new paragraph: Riding on Bicycles; Influence of Drugs or Alcohol. The

sponsor related to the committee a case where an individual was so charged; however, the Driving Under the Influence laws were vague in this particular instance. The individual in that particular case pled to a lesser charge of reckless conduct. The bill would exclude operation of a wheelchair under the influence which could have the same unsafe consequences of riding a bicycle. The committee felt that a charge of reckless conduct may be the appropriate charge in these situations. Vote 16-1.

**SB 320-FN, relative to penalties for damaging emergency vehicles. INEXPEDIENT TO LEGISLATE**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill would have made damaging an emergency vehicle a class B felony. Additionally, it would have removed from current law the requirement that the owner of a private vehicle containing emergency equipment, damaged under the criminal mischief statute, receive full restitution for the damage. In a state where often the reliance is on volunteers, who respond in personal vehicles, the bill would remove the protection afforded to those volunteers under current law, as amended in 2001. It was submitted in response to a single incident where the air pressure was reduced in the private vehicle tires thus making the vehicle unsafe. This action can be chargeable under other statutes that already exist. The committee felt strongly that elevating the offense to a felony and removing the protection already afforded those who utilize their vehicles as volunteers would be inappropriate. Vote 15-1.

**SB 372, relative to the definition of necessary shelter for dogs. INEXPEDIENT TO LEGISLATE**

Rep. Timothy N. Robertson for Criminal Justice and Public Safety: This bill tried to find a simple solution to a complicated problem. The committee felt that it would create more problems than it would solve. Strict interpretation by law enforcement and dog owners might lead to unnecessary confrontations. As one example, huskies and dachshunds have very different shelter needs. Additionally, the requirements would rule out certain commercially available animal shelters. The bill was not supported by six of the eight witnesses, one of whom was an animal control officer. Vote 15-1.

**SB 388-FN, relative to proof of successful completion of an impaired driver intervention program. OUGHT TO PASS**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: This bill corrects a flaw that was discovered after HB 521 was passed in 2003. It deals with the payment of program costs and fines prior to license revocation for DWI. It also addresses the so-called "RED FLAG" hearing that is currently mandated if additional treatment/counseling is required after the initial program completion. Currently the Department of Safety must schedule a hearing when there is a recommendation for further treatment, even though the person may agree with the recommendation. Under this bill the hearing would still be required if the person requests it. This allows the clinician and the person to avoid an unnecessary hearing but still preserves the person's right to challenge the requirement of additional treatment/counseling that they feel is not needed. Vote 17-0.

**SB 417, relative to vicious dog assaults. INEXPEDIENT TO LEGISLATE**

Rep. Bob M. Fesh for Criminal Justice and Public Safety: This bill would require medical personnel treating the victim of a dog attack to report the attack to the animal control officer or the town clerk. There was an increase in fines on the first offense and repeal of the penalty for a second offense. The proposed changes to RSA 466:31, II-a and RSA 466-31-a, III, could result in homeowners being denied insurance and having the dog in question sent to a shelter and euthanized. The committee felt the current law is balanced and fair to all, particularly if it is properly enforced. Immediate court proceedings may be initiated currently and a vicious dog may be ordered to be put down. The additional language in this bill could force the dog owner to be treated unfairly where in instances the dog had been defending itself, its owner, or its property. Vote 17-0.

**SB 521-FN, increasing the penalty for identity fraud. OUGHT TO PASS WITH AMENDMENT**

Rep. Beth Rodd for Criminal Justice and Public Safety: This bill increases the penalty for all identity fraud crimes to a Class A felony. It leaves to the discretion of the court whether a sentence is to be consecutive or concurrent with any sentence imposed as a result of a conviction that is factually related to the identity fraud conviction. Vote 16-1.

**Amendment (1185h)**

Amend RSA 638:26, II as inserted by section I of the bill by replacing it with the following:

II.[(a)] Identity fraud is[:

~~(1) A class A felony if the value of the property or services obtained exceeds \$1,000;~~

~~(2) A class B felony in all other cases;~~

~~(b) The value may be determined according to the provisions of RSA 637:2, V.] a class A felony.~~

**CACR 27**, relating to elective franchises. Providing that the right to vote in elections shall be limited to citizens of the United States. **INEXPEDIENT TO LEGISLATE**

Rep. Charles F. Weed for Election Law: The hearing regarding whether the State Constitution needed to be changed to prevent an alien from voting in an election in New Hampshire convinced the bipartisan majority that this was a non-problem. The committee wondered whether the old saying "If it ain't broke, don't fix it," might apply to this constitutional resolution. New Hampshire RSAs include requirements of US citizenship to vote and define domicile as requiring US citizenship. This constitutional amendment might require separate voting lists for federal and for state office, and that more problems would be created than solved. Vote 10-4.

**SB 490-FN**, relative to the Help America Vote Act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Steve Vaillancourt for Election Law: This bill came to the committee as a collection of items under the heading "relative to the Help America Vote Act" (HAVA), that much publicized nationwide effort set forth in the wake of the disputed 2000 election. To deal with the disparate parts of the bill, a subcommittee was formed, and it was decided to eliminate certain sections, which neither have anything to do with HAVA nor are essential for immediate passage. For example, gone is a provision for the Secretary of State to provide the statewide voter database to officials to use in jury selection. This matter can be revisited in a few years when the statewide database is ready. Also gone is a call for the Secretary of State to delete from the first in the nation Presidential Primary Ballot the slot for Vice President should no one file for that office. In other words, we would be denying voters a write-in option, despite the fact that history tells us that vice-presidential write-ins have proven significant in the past (Nixon in 1956, Agnew in 1972, for example). Should the Legislature wish to make such a change, something the current committee does not support, there's plenty of time to introduce a separate bill next year, not under the HAVA cover. So here's what this bill does in fact do as amended. It provides for a nonpublic voter listing for those whose identity needs to remain secret (battered women, for example). It allows a person who is unable to mark a ballot to receive assistance of his or her choice in the voting booth. The bill allows an absentee voter to prove domicile by providing a note from a nursing home facility in which he or she resides. The bill addresses how ballots shall be marked, and the committee amendment clarifies a confusing situation in regard to Manchester ward lines, allowing lines as enumerated in the City Charter. This vitally important measure passed the House last year (HB 829), but is mysteriously currently sitting on the table in the Senate. Vote 17-0.

#### **Amendment (1189h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to voting procedures and relative to ward boundaries in Manchester.

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-11 to read as 1-9, respectively.

Amend the bill by replacing section 3 with the following:

3 Absentee Registration Affidavit. Amend RSA 654:17, I to read as follows:

I. The absentee registration affidavit shall be prepared by the secretary of state and shall be in substantially the following form:

#### **Affidavit (Absence from town)**

I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age of 18 years or over on election day and am entitled to vote in the election to be held in said town on \_\_\_\_\_, \_\_\_\_\_ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I do not intend to be present within said town at such time prior to said election as shall enable me personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I am temporarily residing in \_\_\_\_\_ (city and state or city, province, and country);

4) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows **[the] my** name and address **[of the voter]**; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, **[or]** other government document that shows **[the] my** name and address, **[of the voter]** *or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;*

5) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 4) above, this application may not be approved; and

6) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

**Affidavit (Physical Disability)**

I, \_\_\_\_\_ do hereby swear or affirm, under the penalties for voting fraud set forth below, the following:

1) That my legal domicile is in the town of \_\_\_\_\_, New Hampshire, I will be of the age of 18 years or over on election day, and am entitled to vote in the election to be held in said town on \_\_\_\_\_, \_\_\_\_\_ (date), except for the fact that my name does not appear on the checklist to be used in said town at such election;

2) That I am unable by reason of physical disability personally to appear before the supervisors of the checklist of said town in their regular sessions for the correction of the checklist for said election;

3) That I hereby enclose one of the following as proof of identity and domicile:

(a) A copy of a current and valid New Hampshire driver's license or an armed services identification or other photo identification issued by the United States government that shows **[the] my** name and address **[of the voter]**; or

(b) A copy of a current and valid photo identification and a copy of a current utility bill, bank statement, government check, paycheck, **[or]** other government document that shows **[the] my** name and address, **[of the voter]** *or a letter from the administrator of a nursing home or similar facility affirming that I am a resident of that facility that was provided to me at my request pursuant to the administrator's duty to provide such a letter upon my request;*

4) That I acknowledge that if I do not provide a copy of proof of identity and domicile as required by section 3) above, this application may not be approved; and

5) That I hereby make application for the addition of my name to the checklist of said town to be used at said election.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

Amend the bill by replacing section 6 with the following:

6 Preparation of Voting Materials; Squares. Amend RSA 656:8 to read as follows:

656:8 Squares. Directly at the right of the name of each candidate there shall be a square~~;~~~~except that, in the case of president and vice-president of the United States, one square shall suffice which shall be placed opposite the designation "President and Vice-President of the United States", box, oval, or other appropriate symbol for directing voters where to make the appropriate mark.~~

Amend the bill by deleting section 7 and renumbering the original sections 8-9 to read as 7-8, respectively.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 Manchester; Ward Boundaries. For purposes of elections for state senator and state representative conducted after the effective date of this act in districts established by the supreme court in *Below v. Gardner*, No. 2002-0243 (June 24, 2002) and *Burling v. Chandler*, No. 2002-0210 (July 26, 2002), ward boundaries for senate and representative districts in Manchester shall be the ward boundaries established by the city of Manchester in its charter.

### AMENDED ANALYSIS

This bill:

I. Requires that civil penalties for voter fraud be deposited in the election fund.

II. Permits a person registering as an absentee voter to use a letter from the administrator of a nursing home or similar facility as proof of identity and domicile.

III. Clarifies certain requirements for maintaining checklists, preparing voting materials, and assisting disabled voters.

IV. Requires that state senate and representative elections in Manchester be conducted in accordance with the ward lines established in its city charter.

### **SB 357, authorizing municipalities to adopt quarterly billing of taxes. OUGHT TO PASS WITH AMENDMENT**

Rep. James E. Twombly for Municipal and County Government: This bill authorizes any city or town which has adopted an optional fiscal year to institute a system of quarterly billing and collection of taxes as provided in RSA 76:15-b. For those cities or towns that are currently on a calendar year, this bill addresses the transition to a fiscal year system and a quarterly billing method by adding another method of funding an 18 month budget instead of only "raising and appropriating" in one year or by borrowing in anticipation of taxes. The funding of how the municipalities will transition to the optional fiscal year will be determined by the municipalities wishing the change. Vote 16-0.

#### **Amendment (1188h)**

Amend the bill by replacing section I with the following:

1 New Section; Quarterly Collection of Taxes. Amend RSA 76 by inserting after section 15-a the following new section:

76:15-aa Quarterly Billing of Taxes in Certain Towns and Cities. Any city or town which has adopted an optional fiscal year may adopt a system for quarterly billing and collection of taxes as provided in RSA 76:15-b.

I. In a city or town that adopts the provisions of RSA 76:15-b, III, the first quarterly bill shall be due and payable on April 1 during the 6-month conversion period prior to the fiscal year beginning on July 1. This bill shall be an amount based on 1/4 of the total previous year's complete city or town, school, and county levy. The entire amount collected on April 1, except for the county portion, shall be credited to the city or town to fund the 6-month conversion period budget as adopted by the legislative body.

(a) For the purposes of RSA 80:19, the assessment date for the tax bills due and payable on April 1 of the year of conversion to quarterly tax billing shall be that same date of April 1.

(b) Thereafter, beginning with the newly adopted fiscal year beginning July 1, tax payments shall be due as provided in paragraph II.

II. In any city or town which has adopted both an optional fiscal year and quarterly billing, taxes shall be collected in the following manner:

(a) Tax payments shall be due July 1, October 1, January 2, and March 31 of each fiscal year to fund the optional fiscal year budget which is the basis upon which the tax rate shall be established by the department of revenue administration.

(b) A quarterly billing of the taxes to be due in any tax year shall be computed by taking the previous year's assessed valuation times the previous year's tax rate, as determined by the department of revenue administration, divided by 4; provided, however, that whenever it appears to the assessors that certain individual properties have changed in valuation, they may use the current year's appraisal times the previous year's tax rate divided by 4 to compute the quarterly payment. Quarterly payments of taxes assessed under this section shall be due and payable on July 1 and October 1. For the purpose of the quarterly payments, a list of assessed property shall be committed by the board of assessors with warrants under their hands and seal directed to the collector no later than May 15. The collector shall mail all the bills for the 2 quarterly payments no later than 30 days before their due dates. The collector shall receive such payments and credit the amount paid towards the amount of the taxes eventually assessed against the property.

(c) Payments of the remainder of the taxes, minus the 2 quarterly payments due on July 1 and October 1 of that year, shall be due and payable in 2 equal billings on January 2 and March 31. For the purpose of these final remaining quarterly payments, the assessor shall commit warrants to the collector. The collector shall mail all the bills for the 2 remaining tax payments no later than 30 days before their due dates. For purposes of RSA 76:16, RSA 76:16-a, and RSA 76:17, the "notice of tax" shall mean the date the board of tax and land appeals determines to be the last date of mailing of the January 2 quarterly tax bill, which bill is based on the current year's tax rate and assessments.

(d) For the purpose of establishing the real estate tax lien under the provisions of RSA 80:59, for the tax bills due and payable each year after the adoption of quarterly tax billing, the real estate of every person or corporation may be subject to the tax lien procedure by the collector, in case all taxes against the owner shall not be paid in full on or before April 1 next after its assessment.

III. If, subsequent to the collector issuing quarterly bills, the assessors are made aware of a change in ownership in a parcel so billed, the assessors shall amend the tax list and notify the collector, who, upon the request of the new owner, shall cause to be mailed to the new owner a statement of account showing the balance due on the current quarterly billing.

IV. Interest at the rate of 12 percent per annum shall be charged on all taxes not paid on or before their due dates or 30 days after mailing, whichever is later.

Amend RSA 72:1-d, I(d) as inserted by section 2 of the bill by replacing it with the following:

*(d) Notwithstanding subparagraph (c), in municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.*

Amend RSA 76:1-a, I(d) as inserted by section 3 of the bill by replacing it with the following:

*(d) Notwithstanding subparagraph (c), in municipalities that bill quarterly, pursuant to RSA 76:15-aa, the date the municipality mails the final tax bill to the taxpayers.*

Amend the bill by inserting after section 4 the following and renumbering the original section 5 to read as 6:

5 Applicability. The provisions of this act shall not apply to the city of Concord while 1994, 203 as amended by 1997, 115 remains in effect.

## **SB 359, relative to construction of buildings on certain pre-existing streets. OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill allows for the construction of buildings on certain pre-existing streets that were approved by a municipality before the municipality authorized the planning board to regulate the subdivision of land. RSA 674:41 covers the different ways in which a building permit may be issued for the construction of buildings and additions to buildings. The RSA provides for seven different ways that a lot qualifies for the issuance of building permits after the municipality grants planning board authority for approval or disapproval of plats. RSA 674:41 failed to address the lots that were located on streets that were in existence prior to the establishment of a local planning board. This bill allows for the issuance of building permits for lots that are served by a street shown on a subdivision plat that was approved either by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats. Vote 15-0.

### **Amendment (1198h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Grammar Change. Amend RSA 674:41, I(d) (3) to read as follows:



(3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; *or*

2 New Subparagraph; Planning and Zoning; Building on Certain Pre-existing Streets. Amend RSA 674:41, I by inserting after subparagraph (d) the following new subparagraph:

(e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been erected on other lots on the same street.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill allows for the construction of buildings on certain pre-existing streets which were approved by a municipality before the municipality authorized the planning board to regulate the subdivision of land.

**SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Robert W. Brundige for Municipal and County Government: This bill clarifies that the issuance of bonds can either be by a 2/3 or 3/5 vote in a municipality that has adopted an optional form of government through the charter process as long as the charter specifies the percentage. If the charter is silent then a 2/3 majority will be required. This change in law was needed since there was only one optional form of government – the official ballot town meeting as described in RSA 49-D: 3, II-a – that had been given this opportunity. Now there is the same option to all the municipalities that have adopted a charter for their specific form of government. Section 4 of the amendment allows the Claremont School District to coordinate their school elections with the timetable that governs in RSA 40:13 (SB 2) for a municipality or in RSA 671:2 that governs school district officers. Section 6 of the amendment sets up the same coordination of elections for the union school district of Keene as the district needs and the referendum process as required. Vote 17-0.

### Amendment (1193h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.

Amend the bill by replacing all after the enacting clause with the following:

1 Town or District Bonds or Notes. Amend RSA 33:8 to read as follows:

33:8 Town or District Bonds or Notes. Except as otherwise specifically provided by law, the issue of bonds or notes by any municipal corporation, except a city or a town which has adopted a charter pursuant to RSA 49-B, without a budgetary town meeting, and except a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote by ballot of 2/3, and the issue of tax anticipation notes, by a vote of a majority, of all the voters present and voting at an annual or special meeting of such corporation, called for the purpose. The issue of notes or bonds by a school district or municipality which has adopted official ballot voting procedures pursuant to RSA 40:13 shall be authorized by a vote of 3/5. *The issue of notes or bonds by a municipality that has adopted an optional form of legislative body under RSA 49-D:3, I-a or RSA 49-D:3, II-a shall be authorized by either a 2/3 or 3/5 vote as adopted and provided for in the charter. If such charter does not specify which majority vote is required, then the required majority vote shall be 2/3.* Only votes in the affirmative or negative shall be included in the calculation of any majority. No such action taken at any special meeting shall be valid unless a majority of all the legal voters are present and vote at such special meeting, unless the governing board of any municipality shall petition the superior court for permission to hold an emergency special meeting, which, if granted, shall give said special meeting the same authority as an annual meeting. The warrant for a special meeting shall be published once in a newspaper having a general circulation in the municipality within one week after the posting of such special meeting. The warrant for any such annual or special meeting shall be served or posted at

least 14 days before the date of such special meeting. Every warrant shall be deemed to have been duly served or posted, if the return on the warrant shall so state, and it shall be certified by the officer or officers required to serve or post the same. All bonds or notes, authorized in accordance with this chapter, shall be signed by the governing board, or a majority of the governing board, and countersigned by the treasurer of the municipality, and shall have the corporate seal, if any, affixed to it. The discretion of fixing the date, maturities, denominations, the interest rate, or discount rate in the case of notes, the place of payment, the form and other details of said bonds or notes and of providing for the sale of such bonds or notes, may be delegated to the governing board or to the treasurer and shall, to the extent provision therefor shall not have been made in the vote authorizing the same, be deemed to have been delegated to the governing board.

2 Municipal Bonds; Town Charters. Amend RSA 49-B:3, I-a to read as follows:

I-a. Official ballot town council shall be a variation of the town council which provides for voting on some or all matters that general law requires to be addressed at the annual or a special meeting of a town, by official ballot. In such event, the town council shall be vested only with the limited authority to vote on all matters not voted on by official ballot. When an official ballot town council is included in any charter, the provisions of RSA 49-D:3, I, relative to town councils, shall apply in all respects, except with respect to those matters to be voted on by official ballot. When a charter provides for an official ballot town council it shall also specify with precision the budgetary items to be included on the official ballot, a finalization process for the annual budget, the process for public hearings, debate, discussion, and amendment of questions to be placed on the official ballot, the procedures for the transfer of funds among various departments, funds, accounts, and agencies as may be necessary during the year, and the applicability of the official ballot procedure to special elections. *The majority vote required to approve bonds or notes shall be either 2/3 or 3/5 as adopted and provided for in the charter. If a charter does not specify which majority vote is required, then the required majority vote shall be 2/3.* All voting by official ballot shall be in accordance with the procedures established in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling places, and polling hours. Nonbudgetary items may be placed on the official ballot pursuant to this section notwithstanding the provisions of RSA 40:4-e and RSA 39:3-d.

3 Repeal. 1969, 618, relative to Claremont school district elections, is repealed.

4 Claremont School District; Terms of Office. The Claremont school district shall commence regular district elections in March 2005 in accordance with RSA 40:13 or RSA 671:2, as applicable. Each Claremont school district officer shall remain in office until a replacement is elected at the next election following the expiration of his or her term of office established prior to the repeal of 1969, 618.

5 Repeal. 1967, 566:2, relative to elections conducted by the union school district of Keene, is repealed.

6 Preparation of School District Ballot; Removal of Coordination of School District Ballot With City Election. Amend 1967, 566:4 as amended by 1977, 229:1; 1995, 40:1; and 1998, 258:4 to read as follows:

566:4 Declarations of Candidacy; Ballots. A candidate for school district office shall file a declaration of candidacy for the office with the district clerk during the same filing period as is established for a non-partisan town election. ~~[The district clerk and the city clerk of the city of Keene shall coordinate the preparation of ballots for the election of said officials with such other voting materials as are in use for the election and may combine school district and city ballots. The costs of the preparation of such combined ballots shall be divided as the city and school district clerks shall determine. If the clerks do not coordinate the preparation of a combined city and school ballot, then the school district clerk shall prepare ballots for the election of school district officials in an appropriate form as will enable city election officials to handle the ballots and count them efficiently. The district clerk shall deliver said ballots to the city clerk of the city of Keene, who shall deliver the same to the election officials in the several wards at the same time the ballots for the election of city or state officials are delivered.]~~

7 Union School District of Keene; Terms of Office. The union school district of Keene shall commence regular district elections in accordance with RSA 40:13 or RSA 671:2, as applicable. Each school district officer shall remain in office until a replacement is elected at the next election following the expiration of his or her term of office established prior to the repeal of 1967, 566:2.

8 Referendum. The clerks of the union school district of Keene and the city of Keene shall prepare referendum ballots for use by the voters at the municipal election of the city of Keene to be held in November, 2004, upon which shall be printed the question: "Are you in favor of amending the charter of the union school district of Keene to withdraw the school district's permission to conduct November biennial elections, and adopting the provisions of sections 6, 7, and 8 of senate bill 391 of the 2004 legislative session, an act entitled, "An act relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene?" Beneath this question shall be printed the word "Yes" and the word "No" with an oval immediately opposite each such word in which the voter may indicate his or her choice. If a majority of the voters present and voting on the question shall signify their approval thereof, this act shall be declared adopted. Ballots cast on said question shall be counted and the results announced by the city election officials in the manner prescribed in RSA 659. Ward moderators shall forthwith certify the results of said vote in their respective wards to the district clerk; and the district clerk shall within 10 days after said election certify to the secretary of state the result of the vote on said question.

9 School District Election Dates. Amend RSA 671:2 to read as follows:

671:2 Election Dates. School district officers shall be elected either at the town meeting as provided in RSA 671:22-26 or at an annual meeting of the district held between the dates set forth in RSA 197:1. Notwithstanding any other provision of law [~~including the provisions of 1969, 618 relative to the time for holding school district elections in the city of Claremont~~], no election for school district officers shall be held in conjunction with the biennial election. The prohibition in this section against holding an election for school district officers in conjunction with the biennial election shall not apply to the election of the board of education members of the Concord union school district as provided in 1961, 355 as amended by 1983, 123, to the election of the Laconia board of education members as provided in section 9:01 of the city charter of Laconia as amended by 1975, 357, or to the election of the school board members of the union school district of the city of Keene, as provided in 1967, 566.

10 School District Election Dates. Amend RSA 671:2 to read as follows:

671:2 Election Dates. School district officers shall be elected either at the town meeting as provided in RSA 671:22-26 or at an annual meeting of the district held between the dates set forth in RSA 197:1. Notwithstanding any other provision of law [~~including the provisions of 1969, 618 relative to the time for holding school district elections in the city of Claremont~~], no election for school district officers shall be held in conjunction with the biennial election. The prohibition in this section against holding an election for school district officers in conjunction with the biennial election shall not apply to the election of the board of education members of the Concord union school district as provided in 1961, 355 as amended by 1983, 123, ~~or~~ to the election of the Laconia board of education members as provided in section 9:01 of the city charter of Laconia as amended by 1975, 357, ~~or to the election of the school board members of the union school district of the city of Keene, as provided in 1967, 566~~].

11 Contingency.

I. If the voters of the union school district of Keene do not approve sections 5-7 of this act in accordance with the referendum under section 8 of this act, then section 9 of this act shall take effect 60 days after its passage and section 10 shall not take effect.

II. If the voters of the union school district of Keene approve sections 5-7 of this act in accordance with the referendum under section 8 of this act, then section 10 of this act shall take effect 60 days after its passage and section 9 shall not take effect.

12 Effective Date.

I. Sections 5, 6, and 7 of this act shall take effect as provided in section 8.

II. Sections 9 and 10 of this act shall take effect as provided in section 11.

III. The remainder of this act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill:

I. Clarifies the authority to approve municipal bonds by either a 2/3 or 3/5 vote in towns with a municipal charter.

II. Repeals the law that allows the Claremont school district to conduct elections in November, provides for a March 2005 school board election, and extends the terms of office of school board officers.

III. Repeals the law that allows the union school district of Keene to conduct elections in November, provides for a school board election at a regular annual meeting, and extends the terms of office of school board officers.

**SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. **OUGHT TO PASS WITH AMENDMENT**

Rep. Thomas J. Gillick for Municipal and County Government: Currently there are different interpretations regarding the definition of vesting rights, active and substantial development and substantial completion of the improvements by the municipal planning boards and developers during the approval process. A study committee was established to study the relationship between vesting rights, active and substantial development and substantial completion. The study was expanded to include capital improvement impact fees, off-site exactions and a process for the planning board and developers to reach agreement prior to approval so there is predictability for both the planning board and the developer. SB 414 defines developers "vesting" rights, active and substantial, development, and substantial completion and makes clear when impact fees are assessed and when they are collected. This bill also emphasizes the clarification and restoration of Planning Board authority to impose "exactions" for off-site infrastructure improvements that had been removed by the Court as in the case of *Simonsen vs Derry*. Vote 16-0.

#### **Amendment (1201h)**

Amend the bill by replacing sections 1-3 with the following:

I Four-Year Exemption; Impact Fee Exception Added. RSA 674:39 is repealed and reenacted to read as follows:

##### **674:39 Four-Year Exemption.**

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of 4 years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 12 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the 4-year exemption described in paragraph I. The planning board may, for good cause, extend the 12-month period set forth in paragraph I(a).

2 Innovative Land Use Controls; Impact Fees. RSA 674:21, V(d) is repealed and reenacted to read as follows:

(d) All impact fees imposed pursuant to this section shall be assessed at the time of planning board approval of a subdivision plat or site plan. When no planning board approval is required, or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit. Impact fees shall be collected at the time a certificate of occupancy is issued. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use. Nothing in this subparagraph shall prevent the municipality and the assessed party from establishing an alternate, mutually acceptable schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the planning board. If an alternate schedule of payment is established, municipalities may require developers to post bonds, issue letters of credit, accept liens, or otherwise provide suitable measures of security so as to guarantee future payment of the assessed impact fees.

3 New Subparagraph; Innovative Land Use Controls; Off-site Exactions. Amend RSA 674:21, V by inserting after subparagraph (i) the following new subparagraph:

(j) The failure to adopt an impact fee ordinance shall not preclude a municipality from requiring developers to pay an exaction for the cost of off-site improvement needs determined by the planning board to be necessary for the occupancy of any portion of a development. For the purposes of this subparagraph, "off-site improvements" means those improvements that are necessitated by a development but which are located outside the boundaries of the property that is subject to a subdivision plat or site plan approval by the planning board. Such off-site improvements shall be limited to any necessary highway, drainage, and sewer and water upgrades pertinent to that development. The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which is necessitated by the development, and which is reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions as may be reasonably required by the planning board. Any exaction imposed pursuant to this section shall be assessed at the time of planning board approval of the development necessitating an off-site improvement. Whenever the calculation of an exaction for an off-site improvement has been predicated upon some portion of the cost of that improvement being borne by the municipality, a refund of any collected exaction shall be made to the payor or payor's successor in interest upon the failure of the local legislative body to appropriate the municipality's share of that cost within 6 years from the date of collection. For the purposes of this subparagraph, failure of local legislative body to appropriate such funding or to construct any necessary off-site improvement shall not operate to prohibit an otherwise approved development.

Amend the bill by replacing section 5 with the following:

5 Effective Date.

I. Section 2 of this act shall take effect June 1, 2005.

II. The remainder of this act shall take effect upon its passage.

**SB 467**, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry. **OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: This bill allows important municipal sanitary sewer lines to be constructed to service new municipal structures in Derry, while granting waivers to abutters within 125 feet of the sanitary sewer lines so that those abutters do not have to tie into the new sanitary sewer lines until their alternative disposal systems (e.g. septic tanks) fail. When these alternative systems fail, the abutters will have to tie into these new sanitary

sewer lines. Officials of Derry and the Department of Environmental Services spoke in favor of this bill. Should other municipalities desire a similar waiver in the future, they will have to seek the permission of the legislature to do so. Vote 18-0.

Amend the bill by replacing all after the enacting clause with the following:

#### **Amendment (1020h)**

1 Town of Derry; Exemption From Public Sewer Requirement.

I. Notwithstanding RSA 147:8, the town of Derry may grant waivers to the requirement of connection to the public sewer for properties with adequate alternative sewage disposal systems, regardless of the date installed, which comply with applicable state and local regulations and which lie within 125 feet of the following:

(a) The new sewer running from Route 102 to the site of the Barkland Acres school.

(b) The new sewer running from Sunnyside Lane, Map 117 – Lot 0539 to the South Range school and along Bradford Street to Silver Street.

II. When an alternative sewage disposal system fails, as determined by local municipal health officials or the department of environmental services, the waiver shall terminate and the property shall connect to the public sewer.

2 Effective Date. This act shall take effect 60 days after its passage.

#### **SB 508-FN, relative to grant-funded programs. OUGHT TO PASS WITH AMENDMENT**

Rep. Eric G. Stohl for Municipal and County Government: This bill is the second attempt to address the same topic in the last two years. The topic deals with authorization of programs funded by grants. Last year, HB 639 was introduced relative to receiving voter approval through warrant articles before a municipality may continue a program initiated under a grant. Now we have SB 508, which authorizes programs funded by federal grants that were initially approved by the voters to continue without further voter approval. RSA 31:95-b provides for a municipality at an annual meeting to vote to allow the selectmen to apply for, accept and expend unanticipated money from a state, federal, or other governmental unit or a private source which becomes available during the fiscal year. The selectmen then shall hold a public hearing prior to taking action and at no time shall such action require the expenditure of other town or village district funds except those funds lawfully appropriated for the same purpose. The committee unanimously feels there is not need for any part of RSA 32:6-a due to the fact that the issue is thoroughly addressed in RSA 31:95-b. Vote 18-0.

#### **Amendment (1095h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Repeal. RSA 32:6-a, relative to the continuation of grant-funded programs, is repealed.

2 Effective Date. This act shall take effect upon its passage.

#### **AMENDED ANALYSIS**

This bill repeals the requirement to seek legislative body approval to continue grant-funded programs in a municipality.

#### **SB 518, establishing a commission to study railroad matching funds and authorizing an expenditure for a certain feasibility study. INEXPEDIENT TO LEGISLATE**

Rep. Edmond D. Gionet for Public Works and Highways: The majority of the committee feels that taking monies out of the special railroad fund will erode the already scarce dollars and will have an adverse effect upon existing railroad operations, a small but important resource that the N.H. Railroad operators are dependant upon. Maintaining the integrity of the Railroad Fund is important and is funded by the tourist industry, allowing the short line railroad operators to draw from the fund to perform the necessary maintenance and upgrades on a 50/50 basis. Vote 12-2.

#### **SB 529, making a technical correction to the eminent domain procedure act. OUGHT TO PASS**

Rep. James E. Holland for Public Works and Highways: The technical change in date of notice would provide a more clearly defined date of action to the property owner. Many changes have been made to the eminent domain statute and the problem addressed here surfaced while the Attorney General's office and DOT tried to follow the statute. Vote 14-0.

#### **SB 532-FN, exempting biodiesel from the road toll. INEXPEDIENT TO LEGISLATE**

Rep. Saghir A. Tahir for Public Works and Highways: The concept for obtaining a fuel that will burn cleaner than what currently exists is well worth investigating. The funding of this bill is one

of the major stumbling blocks. The Highway Fund is under increasing pressure for many projects. The committee encourages use of alternative fuels, however, the cost to the Highway Fund was too high. Further, education on the use of Bio Fuels by the major fuel companies would be more effective. Vote 12-2.

**SCR 5**, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Richard A. McCann for State-Federal Relations and Veterans Affairs: This Resolution commends the U.S. Congress for passing the National Defense Authorization Act of 2004. The committee also recommended that the U.S. Congress continue to support passage of full concurrent receipt legislation in the future. Vote 11-0.

#### **Amendment (1153h)**

Amend the title of the resolution by replacing it with the following:

**A RESOLUTION** commending the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.

Amend the resolution by replacing all after the title with the following:

Whereas, the National Defense Authorization Act of Fiscal Year 2004 was passed by the United States House of Representatives on November 7, 2003 and by the United States Senate on November 12, 2003; and

Whereas, included in this important legislation was an agreement on a landmark provision, providing concurrent receipt of military disability and military retirement benefits to the most disabled veterans; and

Whereas, this historic compromise remedies a problem which has existed for 100 years and provides hundreds of thousands of veterans with full disability payments for the first time ever; and

Whereas, this agreement on concurrent receipt represents monumental progress toward ensuring that the men and women who are injured in service to our country receive fair and equitable compensation; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring:

That the New Hampshire general court commends the members of the United States Congress who invested their time and hard work in reaching this agreement and urges them to continue their support for passage of full concurrent receipt legislation in the future; and

That copies of this senate concurrent resolution be sent by the senate clerk to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and all members of the United States Congress.

#### **AMENDED ANALYSIS**

This senate concurrent resolution commends the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state. **OUGHT TO PASS WITH AMENDMENT**

Rep. Shawn N. Jasper for Ways and Means: The amendment essentially restores the bill to its original form with the addition of a study committee passed by the Senate. The intent of the amendment is to close a loop hole in the Master Settlement Agreement which allows non-participating tobacco manufacturers to sell their product at about \$4 less per carton, because they are receiving most of their contribution to the escrow fund back. This happens because they are not selling their product on a nationwide basis and therefore their total proportional share of tobacco sales, on a national basis, is miniscule. The purpose of the escrow fund is to provide a source of funding should there be successful suits against the non-participating manufacturers, which may or may not have adequate resources to pay damages. The nationwide market share of the non-participating manufacturers has risen in 5 years from less than 1 percent to more than 6 percent. The effect of this has been that New Hampshire received approximately \$4.3 million less from the tobacco settlement than it otherwise would have. Over the 5-year period we have lost about \$11.3 million. Vote 15-0.

#### **Amendment (1158h)**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study the tobacco master settlement agreement revenue stream to the state, and changing requirements for tobacco manufacturers not participating in the tobacco Master Settlement Agreement.

Amend the bill by replacing section 6 with the following:

6 Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. Amend RSA 541-C:3, II(b) to read as follows:

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow *on account of units sold in the state* in a particular year was greater than the [state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment)] *Master Settlement Agreement payments, as determined pursuant to section IX(i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold* had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

7 Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. RSA 541-C:3, II(b) is repealed and reenacted to read as follows:

(b) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was greater than the state's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement (as determined pursuant to section IX(i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in section IX(i)(3) of that Agreement other than the inflation adjustment) had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or

8 Severability; Contingency. If RSA 541-C:3, II(b) as inserted by section 6 of this act is held by a court of competent jurisdiction to be unconstitutional, then subparagraph II(b) as inserted by section 6 shall be deemed to be repealed and section 7 of this act shall take effect. If RSA 541-C:3, II(b) is not held to be unconstitutional, section 7 of this act shall not take effect. Neither any holding of unconstitutionality nor the repeal of RSA 541-C:3, II(b) shall affect, impair, or invalidate any other portion of RSA 541-C:3, or the application of such section to any other person or circumstance, and such remaining portions of RSA 541-C:3 shall at all times continue in full force and effect.

9 New Paragraph; Master Settlement Agreement; Non-participating Tobacco Manufacturers; Escrow Requirement. Amend RSA 541-C:3, I by inserting after paragraph I the following new paragraph:

I-a. The payments required by subparagraph I(b) shall be made in quarterly installments during the year in which the sales covered by such deposits are made.

10 Effective Date.

I. Sections 1-5 of this act shall take effect upon its passage.

II. Section 7 of this act shall take effect as provided in section 8 of this act.

III. The remainder of this act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill establishes a committee to study the tobacco master settlement agreement revenue stream to the state.

bill also changes requirements regarding escrow of funds by tobacco manufacturers not participating in the tobacco Master Settlement Agreement.

**SB 505-FN-A-L**, authorizing CROP zone tax credits for taxpayers within the town of Whitefield. **INEXPEDIENT TO LEGISLATE**

Rep. Jeffrey D. Gilbert for Ways and Means: This bill as passed by the Senate would have extended the tax incentives for new job creation enacted in 2003 retroactively to 2001, specifically for the benefit of an employer in the town of Whitefield. Generally, the committee is supportive of the intent of the bill's sponsors to use tax policy to stimulate the creation of quality new jobs in the most economically-depressed areas of our state and in particular appreciates the creative and substantial efforts made by DRED to address the committee's concerns. However, absent compelling circumstances (which were not demonstrated in this instance) making tax policy retroactive after its enactment is unwise. Further, the committee could not support the legislative targeting of tax credits to a single taxpayer. Vote 18-0.



**REGULAR CALENDAR****SB 513**, relative to the death penalty. **WITHOUT RECOMMENDATION**

Rep. Pilliod moved Ought to Pass and spoke in favor.

Rep. Timothy Allen spoke against and yielded to questions.

Rep. Slocum spoke against.

Rep. DiFruscia spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the motion of Ought to Pass.

**YEAS 272 NAYS 72****YEAS 272****BELKNAP**

Allen, Janet	Bartlett, Gordon	Boyce, Laurie	Flanders, Donald
Laflam, Robert	Pilliod, James	Russell, David	Thomas, John

**CARROLL**

Brown, Carolyn	Dickinson, Howard	Merrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	

**CHESHIRE**

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espiefs, Peter	Hunt, John	Laurent, John	Liebl, George
Manning, Joseph	Meader, David	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Smith, Edwin	Tilton, Anna	Webber, Amy	Weed, Charles

**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Mears, Edgar
Pratt, Leighton	Richardson, Herbert	Stohl, Eric	Theberge, Robert

**GRAFTON**

Akins, Ralph	Almy, Susan	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Dudley, Terri	Gionet, Edmond	Ham, Bonnie	Hammond, Lee
Ingbretson, Paul	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter	Williams, Burton		

**HILLSBOROUGH**

Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence	Balcom, John
Baroody, Benjamin	Batula, Peter	Bergin, Peter	Bouchard, David
Brassard, Paul	Carlson, Donald	Carter, Jeffrey	Chabot, Robert
Christensen, D L Chris	Christiansen, Lars	Clayton, William	Clemons, Jane
Cote, David	Cote, Peter	Coughlin, Pamela	Dionne, Kimberley
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Ford, Nancy	Gargas, Carolyn	Gibson, John
Gonzalez, Carlos	Gorman, Mary	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Haley, Robert	Hallyburton, Margaret	Haytayan, Harry Jr
Holden, Randolph	Hopper, Gary	Hunter, Bruce	Infantine, William
Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel	Katsiantonis, Thomas
Kopka, Angeline	Kurk, Neal	LaFlamme, Paul	Lasky, Bette
Lawrence, James	Leach, Edward	Lessard, Rudy	Malloy, Chris
McHugh, Claire	McRae, Karen	Mercer, Robert	Messier, Irene
Michon, Stephen	Mooney, Maureen	Moran, Edward	Mosher, William
Movsesian, Lori	O'Brien, Lori	Ober, Russell III	Palangas, Eric
Pappas, Christopher	Pepino, Leo	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Rowe, Robert	Schulze, Joan	Shaw, Barbara

Souza, Kathleen  
Sullivan, Peter  
Vaillancourt, Steve

Spiess, Paul  
Sweeney, Cynthia  
Wheeler, Robert

Stepanek, Stephen  
Tahir, Saghir

Sullivan, Francis  
Tate, Joan

### MERRIMACK

Anderson, Eric  
Daniels, Eric  
Dunne, Christopher  
Gile, Mary  
Jacobson, Alf  
MacKay, James  
Potter, Frances  
Wallner, Mary Jane

Brueggemann, Donald  
Davis, Frank  
Field, William  
Hager, Elizabeth  
Kenison, Leon  
Maxfield, Roy  
Rodd, Beth

Clarke, Claire  
DeJoie, John  
Fraser, Leo Jr  
Hamm, Christine  
Leber, William  
Nutter, Edward  
Rush, Deanna

Currier, David  
DeStefano, Stephen  
French, Barbara  
Hess, David  
Lockwood, Priscilla  
Owen, Derek  
Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
Cady, Harriet  
Corbin, Corey  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Johnson, Robert  
Kelley, Jane  
Major, Norman  
McKinney, Betsy  
O'Neil, Michael  
Priestley, Anne  
Ruffner, Walter  
Smith, Paul  
Vallone, Matthew  
Weyler, Kenneth

Belanger, Ronald  
Carson, Sharon  
Dalrymple, Janeen  
Fesh, Bob  
Gillick, Thomas  
Hughes, Daniel  
Johnson, Rogers  
Kobel, Rudolph  
Manning, John  
McMahon, Charles  
Packard, Sherman  
Putnam, Ed II  
Scamman, Stella  
Splaine, James  
Waterhouse, Kevin  
Wiley, Robert

Bishop, Franklin  
Coes, Betsy  
DiFruscia, Anthony  
Flanders, John Sr  
Gleason, John  
Hutchinson, Karen  
Katsakiores, George  
Langley, Jane  
McCann, Richard  
Morris, Richard  
Pantelakos, Laura  
Rausch, James  
Shultz, Elizabeth  
Stone, Joseph  
Weare, E Albert  
Zolla, William

Blanchard, MaryAnn  
Cooney, Richard  
Dodge, Robert  
Francoeur, Sheila  
Gould, Kenneth  
Ingram, Russell  
Katsakiores, Phyllis  
Langone, John  
McEachern, Paul  
Norelli, Terie  
Pitts, Jacqueline  
Robertson, Carl  
Smith, Donald  
Tufts, J Arthur  
Welch, David

### STRAFFORD

Bemis, Alan  
Dunlap, Patricia  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Snyder, Clair  
Twombly, James

Bickford, David  
Grassie, Anne  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Spang, Judith  
Wall, Janet

Brown, Julie  
Harrington, Michael  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Katherine  
Woods, Phyllis

Creteau, Irene  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Ferland, Brenda  
Phinizy, James

Burling, Peter  
Flint, Gordon Sr  
Rodeschin, Beverly

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

### NAYS 72

### BELKNAP

Ahern, Omer Jr  
Lawton, David

Clark, Charles  
Nedeau, Stephen

Dewhirst, Glenn  
Wendelboe, Fran

Holbrook, Robert  
Whalley, Michael

### CARROLL

Babson, David Jr  
Stevens, Stanley

Derby, Mark

Kenney, Bettie

McConkey, Mark

### CHESHIRE

Fish, Douglas

**COOS**

Tholl, John Jr

**GRAFTON**Alger, John  
Giuda, RobertDorsett, Andrew  
Maybeck, Margie

Eaton, Stephanie

Gilman, G Michael

**HILLSBOROUGH**Adams, Jarvis  
Beaton, William  
Buhlman, David  
Desmarais, Vivian  
Jasper, Shawn  
Ross, LawrenceAllen, Timothy  
Brundige, Robert  
Carter, Mark  
Fletcher, Richard  
L'Heureux, Robert  
Scanlon, MichaelBalboni, Michael  
Bruno, Pierre  
Cernota, Albert  
Hall, Charles  
Luebker, Bernard  
Slocum, LeeBarry, J Gail  
Buckley, Raymond  
Crane, Elenore Casey  
Hawkins, Ken  
McElroy, Henry Jr  
Wheeler, James**MERRIMACK**Foley, Albert  
Marple, RichardKennedy, Richard  
McCormick, TomL'Heureux, Stephen  
Oliver, JamesLanger, Ray  
Reed, Dennis**ROCKINGHAM**Allen, Mary  
Clark, Vivian  
Hamel, Albert  
Quandt, MatthewBicknell, Elbert  
Dowd, John  
Holland, James Jr  
Roessner, KurtBridle, Russell  
Duffy, James  
Itse, Daniel  
Varrell, ThomasCamm, Kevin  
Gilbert, Karl  
Noyes, Richard  
Weldy, Norman Jr**STRAFFORD**

Cataldo, Sam

Newton, Clifford

**SULLIVAN**

Leone, Richard

and the motion of Ought to Pass was adopted.

Reps. Bicknell and Dowd voted Nay and intended to vote Yea.

Ordered to third reading.

**SB 452**, relative to testimony of expert witnesses. **WITHOUT RECOMMENDATION**

Rep. Haytayan moved Ought to Pass.

Rep. McEachern spoke against.

Rep. Haytayan spoke in favor and yielded to questions.

Rep. Bruno requested a roll call; sufficiently seconded.

The question being adoption of the motion of Ought to Pass.

**YEAS 183 NAYS 159****YEAS 183****BELKNAP**Ahern, Omer Jr  
Flanders, Donald  
Russell, DavidAllen, Janet  
Lafiam, Robert  
Thomas, JohnBartlett, Gordon  
Nedeau, Stephen  
Wendelboe, FranBoyce, Laurie  
Pilliod, James  
Whalley, Michael**CARROLL**Babson, David Jr  
Merrow, Harry  
Stevens, StanleyBrown, Carolyn  
Mock, HenryDickinson, Howard  
Olimpio, J LisbethMcConkey, Mark  
Patten, Betsey**CHESHIRE**Dexter, Judson  
Manning, JosephHunt, John  
Royce, H CharlesLaurent, John  
Smith, Edwin

Liebl, George

**COOS**

Brady, Mark  
Tholl, John Jr

King, Frederick

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Akins, Ralph  
Dudley, Terri  
Ham, Bonnie

Alger, John  
Gilman, G Michael  
Maybeck, Margie

Barker, Robert  
Gionet, Edmond  
Williams, Burton

Dorsett, Andrew  
Giuda, Robert

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Carter, Mark  
Christiansen, Lars  
Dionne, Kimberley  
Fletcher, Richard  
Graham, John  
Haytayan, Harry Jr  
Katsiantonis, Thomas  
Lasky, Bette  
Mercer, Robert  
Mosher, William  
Pepino, Leo  
Rowe, Robert  
Tate, Joan

Allan, Nelson  
Balcom, John  
Bouchard, David  
Cernota, Albert  
Coughlin, Pamela  
Drisko, Richard  
Ford, Nancy  
Greenberg, Gary  
Hunter, Bruce  
Kurk, Neal  
Lawrence, James  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Wheeler, James

Allen, Timothy  
Barry, J Gail  
Brundige, Robert  
Chabot, Robert  
Crane, Elenore Casey  
Elliott, Larry  
Gargas, Carolyn  
Hall, Charles  
Infantine, William  
L'Heureux, Robert  
Lessard, Rudy  
Michon, Stephen  
Ober, Russell III  
Reeves, Sandra  
Stepanek, Stephen  
Wheeler, Robert

Arnold, Thomas Jr  
Batula, Peter  
Carter, Jeffrey  
Christensen, D L Chris  
Desmarais, Vivian  
Fields, Dennis  
Gibson, John  
Hawkins, Ken  
Jasper, Shawn  
LaFlamme, Paul  
McRae, Karen  
Moran, Edward  
Pappas, Marc  
Ross, Lawrence  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
Foley, Albert  
L'Heureux, Stephen  
Marple, Richard  
Oliver, James

Daniels, Eric  
Fraser, Leo Jr  
Leber, William  
Maxfield, Roy

Dunne, Christopher  
Hager, Elizabeth  
Lockwood, Priscilla  
McCormick, Tom

Field, William  
Kenison, Leon  
MacKay, James  
Nutter, Edward

**ROCKINGHAM**

Belanger, Ronald  
Carson, Sharon  
Dodge, Robert  
Francoeur, Sheila  
Gould, Kenneth  
Hughes, Daniel  
Katsakiores, Phyllis  
Manning, John  
Noyes, Richard  
Quandt, Matthew  
Smith, Donald  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Clark, Vivian  
Dowd, John  
Gilbert, Jeffrey  
Griffin, Mary  
Ingram, Russell  
Kobel, Rudolph  
McCann, Richard  
O'Neil, Michael  
Rausch, James  
Smith, Paul  
Welch, David  
Zolla, William

Bridle, Russell  
Cooney, Richard  
Fesh, Bob  
Gilbert, Karl  
Hamel, Albert  
Johnson, Rogers  
Langley, Jane  
McKinney, Betsy  
Packard, Sherman  
Robertson, Carl  
Stone, Joseph  
Weldy, Norman Jr

Camm, Kevin  
Dalrymple, Janeen  
Flanders, John Sr  
Gillick, Thomas  
Holland, James Jr  
Katsakiores, George  
Major, Norman  
Morris, Richard  
Priestley, Anne  
Roessner, Kurt  
Varrell, Thomas  
Weyler, Kenneth

**STRAFFORD**

Bemis, Alan  
Musler, George

Cataldo, Sam  
Newton, Clifford

Harrington, Michael  
Twombly, James

Miller, Joseph

**SULLIVAN**

Jones, Constance

Rodeschin, Beverly

**NAYS 159****BELKNAP**

Clark, Charles

Dewhirst, Glenn

Holbrook, Robert

Lawton, David

**CARROLL**

Derby, Mark	Kenney, Bettie	Philbrick, Donald
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**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Meador, David	Mitchell, McKim	Parkhurst, Henry
Pratt, Irene	Richardson, Barbara	Robertson, Timothy	Tilton, Anna
Webber, Amy	Weed, Charles		

**COOS**

Mears, Edgar	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Eaton, Stephanie	Hammond, Lee
Ingretson, Paul	Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda
Solomon, Peter			

**HILLSBOROUGH**

Balboni, Michael	Baroody, Benjamin	Bergin, Peter	Brassard, Paul
Bruno, Pierre	Buckley, Raymond	Buhlman, David	Carlson, Donald
Clayton, William	Clemons, Jane	Cote, David	Cote, Peter
Dokmo, Cynthia	Emerton, Larry	Gonzalez, Carlos	Gorman, Mary
Goyette, Peter Jr	Haley, Robert	Hallyburton, Margaret	Holden, Randolph
Hopper, Gary	Irwin, Anne-Marie	Jean, Claudette	Johnson, Lionel
Kopka, Angeline	Leach, Edward	Luebker, Bernard	Malloy, Chris
McElroy, Henry Jr	McHugh, Claire	Mooney, Maureen	Movsesian, Lori
Palangas, Eric	Pappas, Christopher	Pilotte, Maurice	Schulze, Joan
Shaw, Barbara	Slocum, Lee	Souza, Kathleen	Spies, Paul
Sullivan, Francis	Sullivan, Peter	Sweeney, Cynthia	Vaillancourt, Steve

**MERRIMACK**

Brueggemann, Donald	Clarke, Claire	Currier, David	Davis, Frank
DeJoie, John	DeStefano, Stephen	French, Barbara	Gile, Mary
Hamm, Christine	Hess, David	Jacobson, Alf	Kennedy, Richard
Langer, Ray	Owen, Derek	Potter, Frances	Reed, Dennis
Rodd, Beth	Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis	Allen, Mary	Blanchard, MaryAnn	Cady, Harriet
Coes, Betsy	Corbin, Corey	DiFruscia, Anthony	Duffy, James
Dumaine, Dudley	Gleason, John	Hutchinson, Karen	Itse, Daniel
Johnson, Robert	Kelley, Jane	Langone, John	McEachern, Paul
McMahon, Charles	Norelli, Terie	Pantelakos, Laura	Pitts, Jacqueline
Putnam, Ed II	Ruffner, Walter	Scamman, Stella	Shultz, Elizabeth
Splaine, James	Tufts, J Arthur	Vallone, Matthew	Waterhouse, Kevin

**STRAFFORD**

Bickford, David	Brown, Julie	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Pelletier, Arthur
Rollo, Deanna	Rous, Emma	Schmidt, Peter	Smith, Marjorie
Snyder, Clair	Spang, Judith	Taylor, Katherine	Taylor, Kathleen
Wall, Janet	Woods, Phyllis		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Ferland, Brenda	Flint, Gordon Sr	Franklin, Peter	Leone, Richard
Phinizy, James			

and the motion of Ought to Pass was adopted.  
Ordered to third reading.

### SPECIAL ORDER

**SB 525-FN-A**, relative to land and community heritage investment program administration. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. H. Charles Royce for the Majority of Resources, Recreation and Development: This bill would not serve the LCHIP program well at this time. The Resources, Recreation & Development Committee took the LCHIP legislation at its formation stage through to it becoming law. The Resources, Recreation & Development Committee has strongly supported LCHIP. It was felt by the Committee that we should look very closely at dedicated funding for LCHIP in Interim Study and start fresh with positive non-partisan cooperation in our next session. Vote 14-1.

Rep. Judith T. Spang for the Minority of Resources, Recreation and Development: LCHIP is one of the New Hampshire's most popular programs, with support from municipalities representing 75% of the state population. It now has no money for projects. The minority introduced an amendment that would have provided a means of funding LCHIP.

Rep. Spang spoke against and yielded to questions.

Rep. Royce spoke in favor.

Majority committee report adopted.

**SB 303-FN**, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. **OUGHT TO PASS WITH AMENDMENT**

Rep. Kurt J. Roessner for Ways and Means: This bill, as amended, adds reporting requirements for qualified investment companies and strengthens the Dept. of Revenue Administration's ability to oversee compliance, and eliminates the tax exempt status of qualified investment capital companies. The amended bill does not eliminate the business profits tax exemption for qualified investment companies. Testimony before the committee explained the tax loophole associated with the Qualified Investment Capital Company (QICC). For example, a business could take \$1 million dollars profit and invest it into a QICC and pay no business profits tax on the \$1 million dollars. If this \$1 million is withdrawn from the QICC by the business after three years, then there will be no state tax on the withdrawal. This amended bill removes the tax exempt status of the QICC. There was no testimony received by the Ways and Means Committee in opposition to the removal of the tax exempt status for the QICC's. The bill, as passed by the Senate, also enabled the Legislative Budget Assistant Office, in the performance of its duties, to access confidential information maintained by the Dept. of Revenue Administration. The enabling language, which was identical to that of SB 350, was removed from the bill by the Ways and Means Committee amendment since SB 350 was referred by the House to the Legislative Administrative Committee for interim study. Vote 18-0.

### Amendment (1228h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.

Amend the bill by replacing all after the enacting clause with the following:

1 **Taxation of Incomes; Who Taxable.** Amend RSA 77:3, I (a) to read as follows:

(a) Individuals who are inhabitants or residents of this state for any part of the taxable year whose gross interest and dividend income from all sources, *including income from a qualified investment company pursuant to RSA 77:4, V*, exceeds \$2,400 during that taxable period.

2 **Business Profits Tax; Definition of Business Organization.** Amend RSA 77-A:1, I to read as follows:

I. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust or other form of organization; organized for gain or profit, carrying on any business activity within the state, except such enterprises as are expressly made exempt from income taxation under the United States Internal Revenue Code as defined in RSA 77-A:1, XX. Each enterprise under this definition shall be subject to taxation under RSA 77-A:2 as a separate entity, unless specifically authorized by this chapter to be treated otherwise, such as, but not limited to, combined reporting. Trusts treated as grantor trusts under section 671 of the United States Internal Revenue Code shall be included in

the return of their owners, and such owners shall be subject to the tax thereon to the extent such owners would be considered a business organization hereunder notwithstanding the existence of the trust. The use of consolidated returns as defined in the United States Internal Revenue Code as defined in RSA 77-A:1, XX is not permitted. Notwithstanding any other provision of this paragraph, an enterprise shall not be characterized as a business organization and shall be excluded from taxation at the entity level if it ~~is a~~ ***elects to be treated as a*** qualified investment company as defined in RSA 77-A:1, XXI ~~[that is not taxable under RSA 77-A:2-c]~~. A partnership, limited liability company, estate, trust except grantor trusts pursuant to section 671 of the United States Internal Revenue Code, "S" corporation, real estate investment trust, or any other such entity, other than ~~a~~ ***an organization electing to be treated as a*** qualified investment company as defined in RSA 77-A:1, XXI ~~[that is not taxable under RSA 77-A:2-c]~~ whose net income is reportable by the true owners either directly or indirectly shall be subject to tax at the entity level, and no part of such earnings or loss shall be included in the calculation of the gross business profits of the owners of such entity.

3 Business Profits Tax; Definition of Qualified Investment Company. Amend RSA 77-A:1, XXI to read as follows:

XXI.(a) "Qualified investment company" means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-A:1, XX;

(2) An organization that is an investment company under the Investment Company Act of 1940 as amended; ***or***

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act; ***or***

~~(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV].~~

(b) A qualified investment company shall limit its activities to investment or other activities consistent with its organizational purpose and those incidental to or in support of such activities ~~[and shall submit certification that it satisfies the requirements to be classified as a qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and] provided [further] that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. [Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.]~~ ***A business organization seeking qualified investment company status shall file an election pursuant to RSA 77-A:5-b.***

4 Business Profits Tax; Additions and Deductions. Amend RSA 77-A:4, XV to read as follows:

XV. In the case of a business organization that is a holder of an ownership interest in a qualified investment company as defined in RSA 77-A:1, XXI, an addition to gross business profits of an amount equal to the holder's proportional share of profits of the qualified investment company, computed as if the qualified investment company were a business organization subject to tax under RSA 77-A. ~~[Such a holder shall deduct from gross business profits that]~~ ***No portion of any actual distributions made to such holder by such qualified investment company that would otherwise be part of taxable business profits shall be included in such holder's gross business profits.***

5 Election and Reporting for Qualified Investment Companies. RSA 77-A:5-b is repealed and reenacted to read as follows:

77-A:5-b Election and Reporting for Qualified Investment Companies.

I. Business organizations shall file an election with the commissioner to be a qualified investment company with respect to any taxable period on a form prescribed by the commissioner at any time on or before the fifteenth day of the third month of such taxable period. Such an election shall be effective for the taxable period of the qualified investment company for which it is made and for all succeeding taxable periods until such election is terminated as provided in this section.

II. Every business organization electing treatment as a qualified investment company shall, with respect to each taxable period, file a report, in accordance with such rules or forms as the commissioner may prescribe, setting forth the following:

(a) The aggregate amounts of funds invested in the qualified investment company.

(b) The names, addresses, and federal taxpayer identification numbers of the holders of such qualified investment company and the amount, if any, of their proportional share of the income required to be included in such holder's New Hampshire tax return under RSA 77:4, V and RSA 77-A:4, XV.

(c) The name, address, and federal taxpayer identification number of the manager of such qualified investment company.

(d) The amount of the income received and expenses incurred by the qualified investment company for the tax period.

(e) Notwithstanding any other provision of this section, a qualified investment company shall be deemed to have satisfied the reporting requirements of this section if it files with the commissioner a copy of its federal income tax return, as filed with the Internal Revenue Service.

III. Such report or copy of the federal income tax return shall be filed at any time on or before 30 days following the filing of the federal income tax return with the Internal Revenue Service. Any qualified investment company which fails to timely file the report as required by this section shall pay a penalty equal to \$100 for each day such report is not filed, unless an extension has been granted by the commissioner. In no event shall the monetary fine imposed by this paragraph exceed \$5,000. A qualified investment company notified by the department that such report is overdue by more than 50 days shall have 30 days from the date of such notification to file the delinquent report. If the delinquent report is not filed within 30 days after notification, the commissioner shall disallow the business organization qualified investment company status for the tax periods for which a timely report is not filed.

IV. The qualified investment company shall be subject to the provisions of RSA 77-A:11 and RSA 77-E:10. The commissioner is authorized to audit and enforce such provisions with any of the powers granted under this chapter and RSA 77-E.

V. The election provided for in paragraph I may be terminated as follows:

(a) By revoking said election by consent of the majority of the members, partners, or shareholders of the qualified investment company, or by determination of the manager of the qualified investment company. Such revocation must be filed with the department on or before the fifteenth day of the third month of the taxable period to be effective for such period. Any revocation filed after the fifteenth day of the third month of the taxable period shall be effective for the following tax period; or

(b) Whenever the company ceases to satisfy the requirements for qualification as a qualified investment company as provided in RSA 77-A:1, XXI.

6 Business Enterprise Tax: Definition of Qualified Investment Company. Amend RSA 77-E:1, XIV to read as follows:

XIV.(a) "Qualified investment company" means:

(1) A regulated investment company as defined in section 851 of the United States Internal Revenue Code as defined in RSA 77-E:1, XVII;

(2) An organization that is an investment company under the Investment Company Act of 1940, as amended; *or*

(3) An organization that would be an investment company under the Investment Company Act of 1940, as amended, but for the exception from investment company status provided by section 3(c)(1) or 3(c)(7) of said Investment Company Act[~~or~~

~~(4) A qualified investment capital company as defined in RSA 77-A:1, XXIV].~~

(b) A qualified investment company shall limit its activities to investment or other activities consistent with its organizational purpose and those incidental to or in support of such activities [and shall submit certification that it satisfies the requirements to be classified as a qualified investment company to the commissioner no later than 9 months subsequent to commencement of its investment activities, and] provided [further] that any such exception from investment company status by reason of section 3(c)(7) is available only to issuers whose securities are owned by persons or organizations who are deemed under section 3(c)(7) or any order, regulation or interpretation thereunder not to require protection under the provisions of the Investment Company Act by reason of their size, nature, status, or sophistication. [Upon petition, the commissioner may accept an untimely submission of such certification, which acceptance shall not be unreasonably withheld.] *A business organization seeking qualified investment company status shall file an election pursuant to RSA 77-A:5-b.*



7 New Section; Business Enterprise Tax; Election of Qualified Investment Company Status. Amend RSA 77-E by inserting after section 5 the following new section:

77-E:5-a Election of Qualified Investment Company Status. Business organizations that have elected qualified investment company status pursuant to RSA 77-A:5-b shall be qualified investment companies for the purposes of this chapter for the tax period or periods corresponding to the election.

8 Repeal. The following are repealed:

I. RSA 77:4, VI, relative to interest and dividend taxation of qualified investment capital company income.

II. RSA 77:4-f, relative to adjustments for contributions and distributions with respect to qualified investment capital companies.

III. RSA 77-A:1, XXIV and XXV, relative to the definitions of "qualified investment capital company" and "investment company manager" for the purposes of the business profits tax.

IV. RSA 77-A:4, XVII and XVIII, relative to additions and deductions for qualified investment capital companies concerning the business profits tax.

9 Transition Provisions. The provisions of RSA 77:4, VI, RSA 77:4-f, II, RSA 77-A:1, XXI (a)(4), RSA 77-A:1, XXIV and XXV, RSA 77-A:4, XVIII, RSA 77-A:5-b, and RSA 77-E:1, XIV(a)(4) shall remain in effect as enacted prior to the effective date of this act for companies that qualified for qualified investment capital company status and submitted a valid election therefor prior to the effective date of this act.

10 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill:

I. Establishes a procedure for a business organization to elect qualified investment company status.

II. Exempts business organizations that qualify for and have elected qualified investment companies from the business profits tax.

III. Eliminates the tax-exempt status of qualified investment capital companies  
Adopted.

Report adopted and ordered to third reading.

**SB 324-FN-A-L**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Vivian R. Clark for the Majority of Ways and Means: This bill was intended to relieve a tax problem experienced by communities in which a new electricity generating plant goes on-line, at which time it becomes subject to the state utility tax instead of the statewide property tax. The committee amendment restricts the statewide tax impact of a new generating plant to 105% of the tax rate that would have been established without the plant. In addition, a second public hearing was held on a non-germane amendment that added sections to relieve two additional problems. One is the prospective loss of approximately \$14 million per year in estate taxes, caused by the federal phase-out of the "sponge" tax credit. New Hampshire has had an estate tax for over 70 years, but the changes imposed by Congress which reduce the Federal tax at the same time reduced the credit allowed for state taxes from an average of 8% to nothing in only three years. This has already reduced our estate tax revenue to only half of what it historically would have been. The amendment fixes the New Hampshire estate tax at 4% of the estate remaining after Federally-allowed exclusions, which is essentially where we are now. It eliminates the Federal graduation of tax rate, which is contrary to the NH Constitution. Included in the exclusions are the \$1.5 million exemption which is in current Federal law, and the increase to a \$2 million in exemption which will occur in 2006. The existing NH estate tax, which is not a new tax, will therefore be decoupled from the Federal tax, but will retain essentially the same rate as currently exists, and all of the Federal exclusions up until 2009. Finally, the amendment prevents the attempt by some developers who construct modular houses (called "pre-site housing" under the law) to use the initial sale exemption for mobile houses (called "manufactured housing") to avoid real estate transfer taxes and specifically limits the transfer tax exclusion to the initial sale of a house that meets the state definition of "manufactured housing". Vote 15-4.

Reps. Peyton B. Hinkle and Peter S. Espieffs for the Minority of Ways and Means: This bill, as it came from the Senate, originally pertained to the calculation of the commissioner's warrant for

the statewide-enhanced education tax. A non-germane amendment was proposed in committee that would continue the estate tax at a fixed rate to help replace the state's share of the federal estate tax that is being phased out. A motion was made and passed 8 to 7 to strip the estate tax part of the amendment from the bill. This would have allowed the estate tax to come back on a separate bill so that it could receive full consideration by the legislature and the public. A subsequent motion to reconsider was approved and a second vote to remove the estate tax part of the bill failed. A suggestion to send the amendment to interim study was made but not acted on. This would have allowed another opportunity to gain further information on the effect of this tax on the state. As finally passed by the committee, provision 3 of the bill provides for a 4% tax and a \$1.5 million dollar exemption for any decedent where death occurs before January 1, 2006. After that, the exemption goes to \$2 million. Minority members of the committee believe this represents a new tax being levied on the people of New Hampshire. In addition the minority opposes the estate tax because a). it denies the citizens of New Hampshire the benefit of the established federal tax policy to abolish the taxation of estates. b). it is inconsistent with this state's own public policy of not levying death taxes which was established by this legislature's 2002 repeal of the Legacy and Succession Taxes. c). this tax replaces the former federal progressive tax with a regressive flat tax, and is, in fact, a new tax.

### Majority Amendment (1177h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the real estate transfer tax, the New Hampshire estate tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

Amend the bill by replacing all after the enacting clause with the following:

1 Statewide Enhanced Education Tax; Commissioner's Warrant. Amend RSA 76:8, I to read as follows:

1.(a) The commissioner of revenue administration shall annually calculate the proportion of statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

(b) *The commissioner shall adjust a municipality's total equalized value for the preceding year by subtracting therefrom the value in such preceding year of any property currently non-taxable under RSA 76:3 whenever the commissioner determines that the following criteria exist:*

(1) *The municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year; and*

(2) *The total equalized value of property for the preceding year including such non-taxable property would result in the municipality's portion of the statewide enhanced education tax for the current tax year exceeding 105 percent of the amount of the statewide enhanced education tax that would be due for the current tax year if the municipality's total equalized value for the preceding year were adjusted by subtracting the preceding year's value of such non-taxable property.*

2 Real Estate Transfer Tax; Manufactured Housing. Amend the introductory paragraph of RSA 78-B:4, IV to read as follows:

IV. Notwithstanding any other provision of this chapter to the contrary, the following subparagraphs shall govern payment of transfer taxes where the real estate consists of manufactured housing, *as defined by RSA 674:31:*

3 Estate Tax; Tax Imposed. Amend RSA 87:1 to read as follows:

87:1 Tax Imposed.

I. *For decedents whose death occurred on or after July 1, 2004 and before January 1, 2006,* an estate tax is hereby imposed upon the transfer of the estate of every decedent leaving an estate which is subject to an estate tax under the provisions of the United States Internal Revenue Code of 1986, as amended, and who has property within this state.

II. *For decedents whose death occurred on or after January 1, 2006, an estate tax is hereby imposed upon the transfer of the estate of every decedent leaving an estate which would have been subject to an estate tax in 2006, under the provisions of the United States Revenue Code of 1986, as amended, and who has property within this state.*

**III.** The amount of the New Hampshire estate tax shall be ~~[equal to the maximum federal estate tax credit allowable for state death taxes with respect to property subject to this state's jurisdiction to impose a tax]~~ **4 percent of the federally taxable estate.**

~~[H.]~~ **IV.** If only a portion of a decedent's estate is located in this state, ~~[such maximum tax credit]~~ **the New Hampshire estate tax** shall be determined by multiplying **4 percent of** the entire amount of the ~~[credit allowable]~~ **estate**, by the percentage **by** which the gross value of the portion of the decedent's estate located in this state bears to the gross value of the entire estate.

~~[IV. This tax shall be imposed in every case in which the credit for state death taxes paid is available as a credit on the decedent's federal estate tax return.]~~

4 Repeal. The following are repealed:

I. RSA 87:7, relative to intent of chapter.

II. RSA 87:9, relative to chapter void, when.

5 Penacook Defined As Municipality; Commissioner's Warrant; Statewide Enhanced Education Tax. The term "municipality" as used in RSA 76:8, I shall be defined to include the Penacook section of the city of Concord.

6 Effective Date.

I. Sections 1 and 5 of this act shall take effect July 1, 2004 at 12:01 a.m. and shall apply to all tax years beginning on or after April 1, 2004.

II. Sections 3-4 of this act shall take effect upon its passage and shall apply to decedents dying after June 30, 2004.

III. The remainder of this act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill:

I. Requires the commissioner of revenue administration, when determining the amount of statewide enhanced education tax to be raised by a municipality, to make an adjustment to the municipality's total equalized value by subtracting the value of certain property which was taxable in the prior year but is currently non-taxable.

II. Changes criteria for taxability of transfers of manufactured housing under the real estate transfer tax.

III. Changes the rate of the New Hampshire estate tax to 4 percent of the federally taxable estate. The bill also caps the exemption amount under the New Hampshire estate tax at \$2,000,000, which is the federal estate tax exemption amount for 2006.

IV. Defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax.

Rep. Espieffs spoke against and yielded to questions.

Reps. Kennedy, Balboni and Hughes spoke against.

Reps. Vivian Clarke and Hess spoke in favor and yielded to questions.

Rep. Kennedy requested a roll call; sufficiently seconded.

The question being adoption of majority amendment.

#### YEAS 158 NAYS 182

##### YEAS 158

##### BELKNAP

Ahern, Omer Jr  
Flanders, Donald  
Nedeau, Stephen

Allen, Janet  
Holbrook, Robert  
Russell, David

Bartlett, Gordon  
Laflam, Robert  
Thomas, John

Boyce, Laurie  
Lawton, David  
Whalley, Michael

##### CARROLL

Babson, David Jr  
Morrow, Harry  
Philbrick, Donald

Brown, Carolyn  
Mock, Henry  
Stevens, Stanley

Derby, Mark  
Olimpio, J Lisbeth

McConkey, Mark  
Patten, Betsey

##### CHESHIRE

Fish, Douglas  
Manning, Joseph  
Smith, Edwin

Hunt, John  
Meader, David  
Weed, Charles

Laurent, John  
Robertson, Timothy

Liebl, George  
Royce, H Charles

**COOS**

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

Richardson, Herbert

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Hammond, Lee

Almy, Susan  
Gilman, G Michael  
Sokol, Hilda

Barker, Robert  
Gionet, Edmond

Dorsett, Andrew  
Giuda, Robert

**HILLSBOROUGH**

Adams, Jarvis  
Carlson, Donald  
Christensen, D L Chris  
Dionne, Kimberley  
Ford, Nancy  
Hopper, Gary  
Kirk, Neal  
Pappas, Christopher  
Rowe, Robert

Batula, Peter  
Carter, Jeffrey  
Coughlin, Pamela  
Emerton, Larry  
Graham, John  
Hunter, Bruce  
Mercer, Robert  
Pepino, Leo  
Scanlon, Michael

Beaton, William  
Carter, Mark  
Crane, Elenore Casey  
Fields, Dennis  
Hall, Charles  
Infantine, William  
Moran, Edward  
Pilotte, Maurice  
Tate, Joan

Brundige, Robert  
Chabot, Robert  
Desmarais, Vivian  
Fletcher, Richard  
Hallyburton, Margaret  
Jasper, Shawn  
O'Brien, Lori  
Reeves, Sandra  
Wheeler, Robert

**MERRIMACK**

Anderson, Eric  
Gile, Mary  
Langer, Ray  
McCormick, Tom

Brueggemann, Donald  
Hamm, Christine  
Leber, William  
Oliver, James

Davis, Frank  
Hess, David  
Lockwood, Priscilla  
Owen, Derek

Dunne, Christopher  
L'Heureux, Stephen  
MacKay, James  
Seldin, Gloria

**ROCKINGHAM**

Belanger, Ronald  
Cooney, Richard  
Francoeur, Sheila  
Gould, Kenneth  
Ingram, Russell  
Langley, Jane  
McKinney, Betsy  
Packard, Sherman  
Ruffner, Walter  
Stone, Joseph  
Weyler, Kenneth

Bridle, Russell  
Dalrymple, Janeen  
Gilbert, Jeffrey  
Griffin, Mary  
Johnson, Rogers  
Letourneau, Robert  
McMahon, Charles  
Pitts, Jacqueline  
Scamman, Stella  
Tufts, J Arthur  
Wiley, Robert

Carson, Sharon  
Fesh, Bob  
Gillick, Thomas  
Holland, James Jr  
Katsakiores, George  
Major, Norman  
Noyes, Richard  
Priestley, Anne  
Smith, Paul  
Waterhouse, Kevin  
Zolla, William

Clark, Vivian  
Flanders, John Sr  
Gleason, John  
Hutchinson, Karen  
Katsakiores, Phyllis  
McEachern, Paul  
O'Neil, Michael  
Roessner, Kurt  
Splaine, James  
Welch, David

**STRAFFORD**

Bemis, Alan  
Knowles, William  
Scott, David

Bickford, David  
Musler, George  
Spang, Judith

Creteau, Irene  
Newton, Clifford  
Twombly, James

Kaen, Naida  
Rous, Emma  
Wall, Janet

**SULLIVAN**

Allison, David

Rodeschin, Beverly

**NAYS 182****BELKNAP**

Clark, Charles

Dewhirst, Glenn

Pilliod, James

Wendelboe, Fran

**CARROLL**

Dickinson, Howard

Kenney, Bettie

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Richardson, Barbara

Dexter, Judson  
Mitchell, McKim  
Tilton, Anna

Dunn, James  
Parkhurst, Henry  
Webber, Amy

Eaton, Daniel  
Pratt, Irene

**COOS**

Brady, Mark

Mears, Edgar

**GRAFTON**

Akins, Ralph  
Diamond, Estelle  
Nordgren, Sharon

Benn, Bernard  
Dudley, Terri  
Scovner, Nancy

Cooney, Mary  
Ham, Bonnie  
Solomon, Peter

Densmore, Edward  
Maybeck, Margie  
Williams, Burton

**HILLSBOROUGH**

Allan, Nelson  
Balboni, Michael  
Bergin, Peter  
Buhlman, David  
Clemons, Jane  
Drisko, Richard  
Gonzalez, Carlos  
Haley, Robert  
Irwin, Anne-Marie  
Kopka, Angeline  
Lawrence, James  
Malloy, Chris  
Messier, Irene  
Movsesian, Lori  
Price, Pamela  
Slocum, Lee  
Sullivan, Francis  
Vaillancourt, Steve

Allen, Timothy  
Baroody, Benjamin  
Brassard, Paul  
Cernota, Albert  
Cote, David  
Elliott, Larry  
Gorman, Mary  
Hawkins, Ken  
Jean, Claudette  
L'Heureux, Robert  
Leach, Edward  
McElroy, Henry Jr  
Michon, Stephen  
Ober, Russell III  
Ross, Lawrence  
Souza, Kathleen  
Sullivan, Peter  
Wheeler, James

Arnold, Thomas Jr  
Barry, J Gail  
Bruno, Pierre  
Christiansen, Lars  
Cote, Peter  
Gargas, Carolyn  
Goyette, Peter Jr  
Haytayan, Harry Jr  
Johnson, Lionel  
LaFlamme, Paul  
Lessard, Rudy  
McHugh, Claire  
Mooney, Maureen  
Palangas, Eric  
Schulze, Joan  
Spiess, Paul  
Sweeney, Cynthia

Artz, Lawrence  
Bergeron, Jean-Guy  
Buckley, Raymond  
Clayton, William  
Dokmo, Cynthia  
Gibson, John  
Greenberg, Gary  
Holden, Randolph  
Katsiantonis, Thomas  
Lasky, Bette  
Luebker, Bernard  
McRae, Karen  
Mosher, William  
Pappas, Marc  
Shaw, Barbara  
Stepanek, Stephen  
Tahir, Saghir

**MERRIMACK**

Clarke, Claire  
Field, William  
Hager, Elizabeth  
Marple, Richard  
Rush, Deanna

Currier, David  
Foley, Albert  
Jacobson, Alf  
Nutter, Edward  
Wallner, Mary Jane

DeJoie, John  
Fraser, Leo Jr  
Kenison, Leon  
Potter, Frances

DeStefano, Stephen  
French, Barbara  
Kennedy, Richard  
Rodd, Beth

**ROCKINGHAM**

Abbott, Dennis  
Blanchard, MaryAnn  
Corbin, Corey  
Duffy, James  
Hughes, Daniel  
Kobel, Rudolph  
Morris, Richard  
Quandt, Matthew  
Smith, Donald  
Weldy, Norman Jr

Allen, Mary  
Cady, Harriet  
DiFrancia, Anthony  
Dumaine, Dudley  
Itse, Daniel  
Langone, John  
Norelli, Terie  
Rausch, James  
Vallone, Matthew

Bicknell, Elbert  
Camm, Kevin  
Dodge, Robert  
Gilbert, Karl  
Johnson, Robert  
Manning, John  
Pantelakos, Laura  
Robertson, Carl  
Varrell, Thomas

Bishop, Franklin  
Coes, Betsy  
Dowd, John  
Hamel, Albert  
Kelley, Jane  
McCann, Richard  
Putnam, Ed II  
Shultis, Elizabeth  
Weare, E Albert

**STRAFFORD**

Brown, Julie  
Harrington, Michael  
Keans, Sandra  
Smith, Marjorie  
Woods, Phyllis

Cataldo, Sam  
Heon, Richard  
Pelletier, Arthur  
Snyder, Clair

Dunlap, Patricia  
Hofemann, Roland  
Rollo, Deanna  
Taylor, Katherine

Grassie, Anne  
Johnson, Nancy  
Schmidt, Peter  
Taylor, Kathleen

**SULLIVAN**

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

Ferland, Brenda  
Leone, Richard

and the majority amendment failed.

Rep. Balboni offered minority amendment (1208h) and spoke in favor.

**Minority Amendment (1208h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

Amend the bill by replacing all after the enacting clause with the following:

1 Statewide Enhanced Education Tax; Commissioner's Warrant. Amend RSA 76:8, I to read as follows:

I.(a) The commissioner of revenue administration shall annually calculate the proportion of statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

*(b) The commissioner shall adjust a municipality's total equalized value for the preceding year by subtracting therefrom the value in such preceding year of any property currently non-taxable under RSA 76:3 whenever the commissioner determines that the following criteria exist:*

*(1) The municipality's total equalized value for the preceding year includes the value of property not taxable under RSA 76:3 in the current tax year; and*

*(2) The total equalized value of property for the preceding year including such non-taxable property would result in the municipality's portion of the statewide enhanced education tax for the current tax year exceeding 105 percent of the amount of the statewide enhanced education tax that would be due for the current tax year if the municipality's total equalized value for the preceding year were adjusted by subtracting the preceding year's value of such non-taxable property.*

2 Real Estate Transfer Tax; Manufactured Housing. Amend the introductory paragraph of RSA 78-B:4, IV to read as follows:

IV. Notwithstanding any other provision of this chapter to the contrary, the following subparagraphs shall govern payment of transfer taxes where the real estate consists of manufactured housing, *as defined by RSA 674:31*:

3 Penacook Defined As Municipality; Commissioner's Warrant; Statewide Enhanced Education Tax. The term "municipality" as used in RSA 76:8, I shall be defined to include the Penacook section of the city of Concord.

4 Effective Date.

I. Sections 1 and 3 of this act shall take effect July 1, 2004 at 12:01 a.m. and shall apply to all tax years beginning on or after April 1, 2004.

II. The remainder of this act shall take effect July 1, 2004.

**AMENDED ANALYSIS**

This bill:

I. Requires the commissioner of revenue administration, when determining the amount of statewide enhanced education tax to be raised by a municipality, to make an adjustment to the municipality's total equalized value by subtracting the value of certain property which was taxable in the prior year but is currently non-taxable.

II. Changes criteria for taxability of transfers of manufactured housing under the real estate transfer tax.

III. Defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax.

Minority amendment adopted.

Report as amended adopted.

Referred to Finance.

**MOTION TO PRINT DEBATE ON SB 324**

Rep. McElroy moved that the debate on *SB 324-FN-A-L*, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality, be printed in the Journal.

Motion failed.

**MOTION TO SUSPENSION OF RULES**

Rep. Brueggemann moved that the Rules be so far suspended as to permit late drafting, introduction and consideration of a bill pertaining to the Land and Community Heritage Program (LCHIP).

Rep. Brueggeman spoke in favor.

Reps. Kurk and Royce spoke against.

Rep. Brueggeman requested a roll call; sufficiently seconded.

The question being adoption of the motion to suspend the Rules.

## YEAS 101 NAYS 236

### YEAS 101

#### BELKNAP

Dewhirst, Glenn

#### CARROLL

None

### CHESHIRE

Allen, Peter  
Meador, David  
Robertson, Timothy

Dunn, James  
Mitchell, McKim  
Tilton, Anna

Eaton, Daniel  
Parkhurst, Henry  
Webber, Amy

Espiefs, Peter  
Richardson, Barbara  
Weed, Charles

### COOS

Mears, Edgar

Theberge, Robert

### GRAFTON

Akins, Ralph  
Densmore, Edward  
Scovner, Nancy

Almy, Susan  
Diamond, Estelle  
Sokol, Hilda

Benn, Bernard  
Hammond, Lee  
Solomon, Peter

Cooney, Mary  
Nordgren, Sharon

### HILLSBOROUGH

Baroody, Benjamin  
Clemons, Jane  
Gorman, Mary  
Jean, Claudette  
Malloy, Chris  
Pappas, Christopher  
Sullivan, Francis

Brassard, Paul  
Cote, David  
Haley, Robert  
Katsiantonis, Thomas  
Michon, Stephen  
Pilotte, Maurice  
Sullivan, Peter

Buckley, Raymond  
Cote, Peter  
Infantine, William  
Kopka, Angeline  
Movsesian, Lori  
Schulze, Joan

Clayton, William  
Dionne, Kimberley  
Irwin, Anne-Marie  
Lasky, Bette  
Palangas, Eric  
Shaw, Barbara

### MERRIMACK

Brueggemann, Donald  
DeStefano, Stephen  
Owen, Derek  
Seldin, Gloria

Clarke, Claire  
French, Barbara  
Potter, Frances  
Wallner, Mary Jane

Davis, Frank  
Gile, Mary  
Rodd, Beth

DeJoie, John  
Hamm, Christine  
Rush, Deanna

### ROCKINGHAM

Abbott, Dennis  
Gillick, Thomas  
Pantelakos, Laura  
Splaine, James

Blanchard, MaryAnn  
Langone, John  
Pitts, Jacqueline  
Vallone, Matthew

Coes, Betsy  
McEachern, Paul  
Robertson, Carl

Corbin, Corey  
Norelli, Terie  
Shultis, Elizabeth

### STRAFFORD

Creteau, Irene  
Johnson, Nancy  
Rollo, Deanna  
Snyder, Clair

Grassie, Anne  
Kaen, Naida  
Rous, Emma  
Spang, Judith

Heon, Richard  
Keans, Sandra  
Schmidt, Peter  
Wall, Janet

Hofemann, Roland  
Pelletier, Arthur  
Smith, Marjorie

### SULLIVAN

Burling, Peter  
Franklin, Peter

Cloutier, John  
Phinizy, James

Donovan, Thomas

Ferland, Brenda

**NAYS 236****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lawton, David  
Thomas, John

Allen, Janet  
Flanders, Donald  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Holbrook, Robert  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Lafiam, Robert  
Russell, David

**CARROLL**

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

**CHESHIRE**

Dexter, Judson  
Liebl, George  
Smith, Edwin

Fish, Douglas  
Manning, Joseph

Hunt, John  
Pratt, Irene

Laurent, John  
Royce, H Charles

**COOS**

Brady, Mark  
Richardson, Herbert

Guay, Lawrence  
Stohl, Eric

King, Frederick  
Tholl, John Jr

Pratt, Leighton

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Maybeck, Margie

Barker, Robert  
Gionet, Edmond  
Williams, Burton

Dorsett, Andrew  
Giuda, Robert

Dudley, Terri  
Ham, Bonnie

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Bruno, Pierre  
Carter, Mark  
Christiansen, Lars  
Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Greenberg, Gary  
Haytayan, Harry Jr  
Jasper, Shawn  
LaFlamme, Paul  
Luebker, Bernard  
Mercer, Robert  
Mosher, William  
Pepino, Leo  
Rowe, Robert  
Spiess, Paul  
Tate, Joan

Allan, Nelson  
Balboni, Michael  
Bergeron, Jean-Guy  
Buhlman, David  
Cernota, Albert  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Hall, Charles  
Holden, Randolph  
Johnson, Lionel  
Lawrence, James  
McElroy, Henry Jr  
Messier, Irene  
O'Brien, Lori  
Price, Pamela  
Scanlon, Michael  
Stepanek, Stephen  
Vaillancourt, Steve

Allen, Timothy  
Barry, J Gail  
Bergin, Peter  
Carlson, Donald  
Chabot, Robert  
Crane, Elenore Casey  
Elliott, Larry  
Ford, Nancy  
Goyette, Peter Jr  
Hallyburton, Margaret  
Hopper, Gary  
Kurk, Neal  
Leach, Edward  
McHugh, Claire  
Mooney, Maureen  
Ober, Russell III  
Reeves, Sandra  
Slocum, Lee  
Sweeney, Cynthia  
Wheeler, James

Arnold, Thomas Jr  
Batula, Peter  
Brundige, Robert  
Carter, Jeffrey  
Christensen, D L Chris  
Desmarais, Vivian  
Emerton, Larry  
Gargas, Carolyn  
Graham, John  
Hawkins, Ken  
Hunter, Bruce  
L'Heureux, Robert  
Lessard, Rudy  
McRae, Karen  
Moran, Edward  
Pappas, Marc  
Ross, Lawrence  
Souza, Kathleen  
Tahir, Saghir  
Wheeler, Robert

**MERRIMACK**

Anderson, Eric  
Fraser, Leo Jr  
Kenison, Leon  
Leber, William  
McCormick, Tom

Dunne, Christopher  
Hager, Elizabeth  
Kennedy, Richard  
Lockwood, Priscilla  
Nutter, Edward

Field, William  
Hess, David  
L'Heureux, Stephen  
MacKay, James  
Oliver, James

Foley, Albert  
Jacobson, Alf  
Langer, Ray  
Marple, Richard

**ROCKINGHAM**

Allen, Mary  
Bridle, Russell  
Clark, Vivian

Belanger, Ronald  
Cady, Harriet  
Cooney, Richard

Bicknell, Elbert  
Camm, Kevin  
Dalrymple, Janeen

Bishop, Franklin  
Carson, Sharon  
DiFruscia, Anthony



Dodge, Robert	Dowd, John	Duffy, James	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey
Gilbert, Karl	Gleason, John	Gould, Kenneth	Griffin, Mary
Hamel, Albert	Holland, James Jr	Hughes, Daniel	Hutchinson, Karen
Ingram, Russell	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane	Kobel, Rudolph
Langley, Jane	Letourneau, Robert	Major, Norman	Manning, John
McCann, Richard	McKinney, Betsy	McMahon, Charles	Morris, Richard
Noyes, Richard	O'Neil, Michael	Packard, Sherman	Priestley, Anne
Putnam, Ed II	Quandt, Matthew	Rausch, James	Roessner, Kurt
Ruffner, Walter	Scamman, Stella	Smith, Donald	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Varrell, Thomas	Waterhouse, Kevin
Weare, E Albert	Welch, David	Weldy, Norman Jr	Weyler, Kenneth
Wiley, Robert	Zolla, William		

**STRAFFORD**

Bemis, Alan	Bickford, David	Brown, Julie	Cataldo, Sam
Dunlap, Patricia	Harrington, Michael	Knowles, William	Musler, George
Newton, Clifford	Scott, David	Taylor, Kathleen	Twombly, James
Woods, Phyllis			

**SULLIVAN**

Allison, David	Flint, Gordon Sr	Jones, Constance	Leone, Richard
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Rodeschin, Beverly

and the motion to suspend Rules failed lacking the necessary two-thirds.

**RESOLUTION**

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, April 29, 2004 at 10:00 a.m.

Adopted.

**LATE SESSION****Third reading and final passage**

**SB 301-FN**, relative to liquor licenses.

**SB 368**, relative to reinsurance.

**SB 369**, relative to examinations of insurance companies by the insurance department.

**SB 370**, relative to the insurance rating law.

**SB 498-FN**, relative to the regulation of debt adjustment services.

**SB 500-FN**, relative to certain procedures of financial institutions.

**SB 388-FN**, relative to proof of successful completion of an impaired driver intervention program.

**SB 521-FN**, increasing the penalty for identity fraud.

**SB 490-FN**, relative to the Help America Vote Act.

**SB 357**, authorizing municipalities to adopt quarterly billing of taxes.

**SB 359**, relative to construction of buildings on certain pre-existing streets.

**SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

**SB-414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.

**SB 467**, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry.

**SB 508-FN**, relative to grant-funded programs.

**SB 529**, making a technical correction to the eminent domain procedure act.

**SCR 5**, commending the United States Congress for supporting full concurrent receipt of disability and retirement benefits by disabled veterans.

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

**SB 513**, relative to the death penalty.

**SB 452**, relative to testimony of expert witnesses.

**SB 303-FN**, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration.

### UNANIMOUS CONSENT

Reps. Nordgren, Mock and Haytayan addressed the House.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purpose of enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 1:00 p.m.

### RECESS

(Rep. Francoeur in the Chair)

### ENROLLED BILL AMENDMENT

**HB 1254-FN**, relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook.

#### Amendment (1354 - EBA)

Amend RSA 6:12, I(b)(140) as inserted by section 2 of the bill by replacing lines 2 and 3 with the following:

(140) Moneys deposited in the [~~postsecondary education loan fund~~] *forgivable loan fund in the workforce incentive program* under RSA [~~188-D:18-h~~] *188-D:18-f*.

Adopted.

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 133, 440, 444, 622, 652, 1138, 1161, 1166, 1414, 1417, 1419, and Senate Bills numbered 311, 330, 337, 345, 346, 347, 358, 379, 412, 424, 438, 456, 457, 466, 497 and 499.

Rep. Currier, Sen. D'Allesandro for the Committee

### SENATE MESSAGES

### CONCURRENCE

**HB 285**, relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

**HB 712-FN**, establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.

**HB 767-FN**, relative to political advertising not authorized by the candidate.

**HB 1134**, relative to appointment of the chief justice of the supreme court.

**HB 1135**, relative to appointment of the chief justice of the superior court.

**HB 1159**, relative to prohibited employment for state liquor commission employees.

**HB 1169**, relative to child support calculations based on one-time or irregular income.

**HB 1210**, relative to self-service storage facility liens.

**HB 1308-FN**, relative to lobbying activities by state employees.

**HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

**HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information.

**HB 1336**, relative to the procedures for the legislative ethics committee.

**HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus.

**HB 1372**, defining certain terms relating to military service.

**HB 1374**, relative to lightning protection systems.

### NONCONCURRENCE

**HB 236**, relative to recount application deadlines.

**HB 366**, relative to mercury reduction.

**HB 559**, relative to grounds for termination of employment.

**HB 656-FN**, establishing a commission to study the operations of the family division court in Grafton county.

**HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care.

**HB 1364-FN**, establishing a statutory joint committee to review and propose changes to state unclassified officers' salaries.

### RECESS

(Rep. Hamel in the Chair)

### ENROLLED BILL AMENDMENTS

**HB 403**, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.

#### Amendment (1338-EBA)

Amend RSA 651-B:1, III as inserted by section 1 of the bill by replacing line 2 with the following: *insanity*, of any violation or attempted violation of:

Adopted.

**HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners.

#### Amendment (1330-EBA)

Amend RSA 206:4-a as inserted by section 1 of the bill by replacing it with the following:

206:4-a Duties. In addition to other duties provided by law, it shall be the duty of the fish and game commissioners, as the citizens' representatives, to be the stewards of the fish, wildlife, and marine resources of the state of New Hampshire and to set general policy in the following areas:

I. Conservation, protection, and management of wildlife populations and habitats, the collection of necessary scientific information, and the enforcement of fish and game laws for the purpose of sustaining healthy populations of fish, wildlife, and marine resources;

II. Development, funding, and implementation of a long-range strategic plan to direct the operation of the fish and game department;

III. Acquisition, development, and maintenance of public access to lands and waters for recreational use consistent with New Hampshire law;

IV. Public education and building support for department programs and objectives; and

V. Establishment of positions on proposed legislation that affects fish, wildlife, and marine resources and the overall management of the fish and game department.

Adopted.

**HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program.

#### Amendment (1326-EBA)

Amend section 4 of the bill by replacing line 1 with the following:

4 Recapture of Agencies Which Determine Non-Eligibility. Amend RSA 227-C:31 to read as follows: Adopted.

**HB 1423-FN**, relative to reimbursement of travel expenses for judges.

**Amendment (1293-EBA)**

Amend RSA 502-A:6-c as inserted by section 3 of the bill by replacing line 2 with the following: personal expenses when absent from their assigned court in the performance of their official duties. Adopted.

RECESS

**(Rep. O'Neil in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 712, 1254 and Senate Bill numbered 450.

Rep. Currier, Sen. D'Allesandro for the Committee

RECESS

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.  
Adopted.

## HOUSE JOURNAL No. 13

Thursday, April 29, 2004

The House assembled at 10:00 a. m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by Guest Chaplain, The Reverend Doug Domin, Pastor of the First Presbyterian Church of Concord.

Our Great God and Father, we give You thanks this day for Your mercies and grace. We thank You for Jesus Christ and the forgiveness of sin for all who trust in him.

We ask for Your spirit to guide and direct the proceedings today. May You be honored in all that is discussed and voted on today. Be with all the members of the House. We thank You for each one and for their dedication and service to the citizens of this state. Bless them and their families.

We ask for Your protection on our nation. Watch over our troops and keep them from harm and danger. We thank You for those who have given their lives for the freedoms we so often take for granted. Bring comfort to those who have lost loved ones. We ask these things in the name of Jesus Christ. Amen.

Rep. Dennis H. Fields led the Pledge of Allegiance.

Rep. Mary Gorman led the members of the House in singing the National Anthem.

### LEAVES OF ABSENCE

Reps. Carlson, Dalrymple, Flanagan, Gionet, Joseph Harris, Sandra Harris, Moore and Morris, the day, illness.

Reps. Beaton, Casey, Vivian Clark, Clayton, DeStefano, Dokmo, Duffy, Hager, Introne, Lawrence, Stephen L'Heureux, McCann, Ober, Packard, Marc Pappas and Stepanek, the day, important business.

Reps. Heon, and Martin, the day, illness in the family.

### INTRODUCTION OF GUESTS

Carol Perkins, guest of Reps. Cooney and Naro. Arva DuBourg, sister of Rep. Maybeck. Jessica Daniels and Kimberly Reid, daughter and guest of Rep. Daniels. Deb and Leah Lacross and Dawn Lizotte, guests of Rep. Rush. Melony van Steensburg and Destyne Fannon, guests of Rep. Karen Hutchinson. Casey Dupuis, guest of Reps. Nancy Johnson and Buhlman. Dani Lacovara, Dan Keating and Jeff Richardson, guests of Rep. Clemons.

### SENATE MESSAGES

#### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 1312**, relative to the court's discretion to extend child support obligations. (Amendment printed SJ 04/22/04)

Rep. Moran moved that the House concur and spoke in favor.

Adopted.

**HB 1202**, relative to third-party payment of covered services ordered by the juvenile court. (Amendment printed SJ 04/22/04)

Rep. Hunt moved that the House concur and spoke in favor.

Adopted.

**HB 1257-FN**, relative to penalties for driving under the influence with a minor in the vehicle. (Amendment printed SJ 04/22/04)

Rep. Welch moved that the House concur.

Rep. Tholl spoke in favor

Adopted.

**HB 729-FN**, relative to the regulation of tanning facilities. (Amendment printed SJ 04/22/04)

Rep. O'Neil moved that the House concur and spoke in favor.

Adopted.

**HB 1266**, relative to the long-term care ombudsman. (Amendment printed SJ 04/22/04)  
Reps. Batula and Kurk moved that the House concur.  
Rep. Batula spoke in favor.  
Adopted.

**HB 422**, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases. (Amendments printed SJ 04/22/04)  
Rep. Mock moved that the House concur and spoke in favor.  
Adopted.

**HB 326**, relative to establishing a 6-year capital budget. (Amendment printed SJ 01/07/04)  
Rep. Edwin Smith moved that the House concur and spoke in favor.  
Adopted.

**HB 1131**, establishing a committee to study exotic aquatic weeds and species. (Amendment printed SJ 04/15/04)  
Rep. Royce moved that the House concur and spoke in favor.  
Adopted.

**HB 1136**, relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist. (Amendment printed SJ 04/15/04)  
Rep. Royce moved that the House concur and spoke in favor.  
Adopted.

**HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. (Amendment printed SJ 04/22/04)  
Rep. Thomas moved that the House concur and spoke in favor.  
Adopted.

**HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks. (Amendment printed SJ 04/15/04)  
Rep. Welch moved that the House nonconcur and spoke in favor.  
Adopted.

**HB 1348-FN**, relative to registration of business organizations. (Amendments printed SJ 04/15/04)  
Rep. Hunt moved that the House nonconcur and request a Committee of Conference.  
Adopted.  
The Speaker appointed Reps. Hunt, Stepanek, Brady and Kopka.

**HB 1165**, relative to extending domestic violence protection orders. (Amendment printed SJ 04/22/04)  
Rep. Welch moved that the House nonconcur and request a Committee of Conference.  
Adopted.  
The Speaker appointed Reps. Knowles, J. Timothy Robertson, Nedeau, Bicknell.

**HB 1380-FN**, relative to unauthorized video surveillance. (Amendment printed SJ 04/22/04)  
Rep. Welch moved that the House nonconcur and request a Committee of Conference.  
Adopted.  
The Speaker appointed Reps. Tholl, Knowles, Bicknell and Nedeau.

**HB 643-FN**, relative to the family division of the courts. (Amendments printed SJ 04/22/04)  
Reps. Mock and Kurk moved that the House nonconcur and request a Committee of Conference.  
Adopted.  
The Speaker appointed Reps. Mock, Dudley, Robert Wheeler and Wall.

## COMMITTEE REPORTS

## CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**SB 520**, relative to modification of child support obligation, removed by Rep. Hallyburton.

**SB 421**, relative to charter schools, removed by Rep. Lars Christiansen.

**SB 526**, relative to sexual harassment complaint procedures for public employees, removed by Rep. Jacobson.

Consent Calendar adopted.

**SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This bill as amended allows the Guardian ad Litem Board to make comprehensive rules concerning oversight of court appointed guardians ad litem. Provisions include screening, training, review and discipline. Vote 12-0.

#### **Amendment (1328h)**

Amend RSA 490-C:4, II as inserted by section I of the bill by inserting after subparagraph (g) the following new subparagraph:

(h) Accept and expend the fees indicated in subparagraphs I(c), II(a), II(c), and II(d).

**SB 314**, relative to access to medical records. **OUGHT TO PASS WITH AMENDMENT**

Rep. Donald H. Flanders for Commerce: This bill clarifies the medical record law so that "all" medical information in the possession of any health care provider is the property of the patient who shall be entitled to a copy of such records upon request. Vote 14-0.

#### **Amendment (1167h)**

Amend RSA 332-I:1, I as inserted by section I of the bill by replacing it with the following:

I. ~~[The]~~ **All** medical information contained in the medical records in the possession of any health care provider shall be deemed to be the property of the patient. The patient shall be entitled to a copy of such records upon request. The charge for the copying of a patient's medical records shall not exceed \$15 for the first 30 pages or \$.50 per page, whichever is greater; provided, that copies of filmed records such as radiograms, x-rays, and sonograms shall be copied at a reasonable cost.

#### **AMENDED ANALYSIS**

This bill clarifies the medical record law.

**SB 348**, relative to the sale of manufactured housing and the management of manufactured housing parks. **OUGHT TO PASS WITH AMENDMENT**

Rep. Charles L. Clark for Commerce: This bill will regulate certain practices by manufactured housing park owners including tenant application fees, repairs and improvements required prior to the sale or, inside the home, compliance with an aesthetic standard, and written notice if an application for tenancy is denied. This bill also provides the circumstances in which a prior decision of the board of manufactured housing relative to the reasonableness of park rules shall be binding on the parties in a future proceeding. There was no opposing testimony to SB 348. Vote 15-0.

#### **Amendment (1295h)**

Amend RSA 205-A:2, II(e) as inserted by section I of the bill by replacing it with the following:

(e) Impose a non-refundable fee for processing an application for tenancy that exceeds \$125 unless the park owner provides the applicant with an itemized breakdown of the application fee. An application fee may exceed \$125, provided that it is reasonable.

**SB 371**, relative to certain technical changes in the insurance laws. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: As amended, this legislation extends the denial of coverage with any insured motor vehicle operator whose driver's license has been suspended or revoked. This bill allows the insurance company, through the high-risk pool, to offer new types of products beyond the four that are currently required by statute. It also reduces health care insurance pre-existing condition exemptions from 12 to 9 months in accordance with the federal law. It changes the title of Assistant Insurance Commissioner to Director of Operations. It disallows alteration to any written application of life or annuity contracts without the written consent of the policyholder. Authority may granted to a health plan to use the company's own health status forms to collect health information. It allows employees who are submitting health status forms the option to con-

vey the information directly to the broker or insurer, thereby passing the employer to insure confidentiality. It allows large employers to request claims data from the current insurer. It requires health insurers who delete a drug from its formulary to notify those subscribers who have used the drug in the previous 12 months since its deletion. Vote 15-0.

### Amendment (1242h)

Amend the bill by replacing all after section 3 with the following:

4 Accident and Health Insurance; Preexisting Conditions. Amend RSA 415-A:5, I to read as follows:

1. If an insurer or a nonprofit hospital or medical service association elects to use a simplified application form for a policy other than a Medicare supplement policy, with or without a question as to the applicant's health at the time of application, but without any questions concerning the insured's health history or medical treatment history, the policy, [t2] 9 months after date of issuance, must cover any loss occurring from any preexisting condition not specifically excluded from coverage by terms of the policy and, except as so provided, the policy shall not include wording that would permit a defense based upon preexisting conditions.

5 Medical Utilization Review Entities; Medical Director. Amend RSA 420-E:2-a to read as follows:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329 *or, in the case of a dental utilization review entity, a dentist licensed under RSA 317-A.*

6 Insurance Department Positions; Director of Operations. Amend RSA 400-A:6, III-a to read as follows: III-a. There shall be ~~[an assistant commissioner of insurance]~~ **a director of operations** who shall be appointed by the commissioner of insurance. He **or she** shall serve at the pleasure of the commissioner during good behavior. When the offices of the commissioner and deputy commissioner are vacant, or when the commissioner or deputy commissioner is unable to perform his **or her** duties because of mental or physical disability, the ~~[assistant commissioner of insurance]~~ **director of operations** shall be acting commissioner. The ~~[assistant commissioner]~~ **director of operations** shall perform such duties and exercise such powers of the commissioner pursuant to RSA Title XXXVII as the commissioner from time to time may authorize.

7 Insurance Department; Compensation; Expenses. Amend RSA 400-A:8, I and II to read as follows:

I. COMPENSATION. The salary of the commissioner, deputy commissioner, ~~assistant commissioner~~ *director of operations*, director of examinations, actuary, life, accident and health actuary, and assistants to the commissioner shall be as prescribed in RSA 94:1-a.

II. EXPENSES. The commissioner, deputy commissioner, ~~assistant commissioner~~ **director of operations**, director of examinations, actuary, life, accident and health actuary, and the assistants to the commissioner shall be allowed their traveling expenses while engaged in the performance of their duties.

**8 Soliciting Application.** Amend RSA 408:7 to read as follows:

408:7 Soliciting Agent; *Altering Application.*

*1. Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the [assured] **insured**, or his **or her** beneficiary, and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the [assured] **insured**.*

*II. No alteration of any written application for any life insurance policy or annuity contract shall be made by any person other than the applicant without his or her written consent, except that insertions may be made by the insurer, for administrative purposes only in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.*

9 Salary; Insurance; Director of Operations.

I. Amend RSA 94:1-a, I(b) by deleting in group EE the following:

EE Insurance department assistant commissioner

II. Amend RSA 94:1-a, I(b) by inserting in group EE the following:

EE Insurance department director of operations

10 Group Life Insurance; Policy Requirement. Amend RSA 408:15, I(b) to read as follows:

(b) The premium for the policy shall be paid by the policyholder, either ~~[wholly]~~ from the employer's funds or funds contributed by him, or ~~[partly from such funds and partly]~~ from funds



contributed by the insured employees. ~~[No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.]~~ A policy on which no part of the premium is to be derived from funds contributed by the insured employees, must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

11 New Paragraph; Insurance; High Risk Pool. Amend RSA 404-G:5-b by inserting after paragraph III the following new paragraph:

III-a. The association, subject to the approval of the commissioner, may from time to time offer such plans, in addition to the 4 plans required under paragraphs II and III, as its board of directors determines would be helpful to advance the purposes of this chapter.

12 Health Insurance; Medical Underwriting. Amend RSA 420-G:5, I to read as follows:

I. Health carriers providing health coverage for individuals or small employer groups may perform medical underwriting, including the use of health statements or screenings or the use of prior claims history, to the extent necessary to establish or modify premium rates as provided in RSA 420-G:4. ~~[Such underwriting shall be limited to the use of a standardized health statement for use in adjustments to rating pursuant to RSA 420-G:4.]~~ The commissioner ~~[shall, by rule, require]~~ **may allow group** carriers to use standardized health statements.

13 New Paragraph; Small Group Health Insurance; Medical Underwriting. Amend RSA 420-G:5 by inserting after paragraph VI the following new paragraph:

VII. Health carriers and health insurance producers shall ensure that persons seeking coverage through a small employer group who are required to complete a health statement have an option to convey the required information directly to the carrier or the producer through a secure means and bypassing the employer.

14 Group Health Insurance; Health Plan Loss Information. Amend RSA 420-G:12-a, I and II to read as follows:

I. To ensure maximum competition in the purchase of group health insurance, all ~~[private and public]~~ **large** employers ~~[with at least 50 employees enrolled in their group health plan]~~ shall be entitled to receive their specific health plan loss information upon request and without charge. No contract between any health carrier, third-party administrator, employer group, or pool of employers shall abridge this right in any manner.

II. Upon written request from any ~~[private or public]~~ **large** employer ~~[with 50 or more employees enrolled in its group health plan]~~, every health carrier, third-party administrator, pooled risk management program under RSA 5-B, or any other type of multiple employer health plan shall provide that employer's loss information within 30 calendar days of receipt of the request. The loss information shall include all physician, hospital, prescription drug, and other covered medical claims specific to the employer's group plan incurred for the 12-month period paid through the 14 months which end within the 60-day period prior to the date of the request. An employer shall not be entitled by this section to more than 2 loss information requests in any 12-month period; however, nothing shall prohibit a carrier from fulfilling more frequent requests on a mutually agreed-upon basis.

15 Managed Care Law; Prescription Drugs. Amend RSA 420-J:7-b, I(a) to read as follows:

I.(a) Every health benefit plan that provides prescription drug benefits is required to provide prospective enrollees, and ~~[annually to]~~ covered persons, a description of the prescription drug benefit plan. Among the specific items that shall be included in the description are:

(1) The procedure a covered person must follow to obtain drugs and medications that are subject to a plan list or plan formulary.

(2) A description of the drug formulary and the plan's exception process.

(3) A description of the extent to which a covered person will be reimbursed for the cost of a drug that is not on a plan list or formulary.

16 Managed Care Law; Prescription Drugs. Amend RSA 420-J:7-b, III to read as follows:

III. Every health plan that provides prescription drug benefits shall notify covered persons ~~[of changes]~~ **affected by deletions** to the plan list or plan formulary, provide an explanation of the exception process by which a covered person can access nonformulary medically necessary pre-

scription drugs, and provide a toll-free telephone number through which a covered person can request additional information. *For purposes of this paragraph, covered persons affected by deletions to the plan list or plan formulary shall include those covered persons for whom the health plan has provided coverage for the deleted prescription drugs during the 12-month period immediately prior to the deletion.* Upon notification to covered persons, the health benefit plan shall allow at least 45 days before implementation of any formulary [change] deletions; provided, however, that advance notice shall not be required if the federal Food and Drug Administration has determined that a prescription drug on the health benefit plan's formulary is unsafe.

17 New Paragraphs; Managed Care Law; Prescription Drugs. Amend RSA 420-J:7-b by inserting after paragraph IV the following new paragraphs:

IV-a. Every health benefit plan that provides prescription drug benefits shall provide notice of deletions to the plan list or plan formulary to all covered persons at least annually.

IV-b. Every health benefit plan that provides prescription drug coverage shall also provide notice of additions to the plan list or formulary to all covered persons at least annually. However, the requirements of this paragraph shall not apply to any health benefit plan that adds prescription drugs to its plan list or formulary upon approval by the federal Food and Drug Association.

18 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill makes certain technical changes in the insurance laws, including but not limited to:

I. Extending the denial of coverage, with certain minimum financial exceptions, to any insured motor vehicle operator whose driver's license has been suspended or revoked.

II. Reducing the pre-existing condition exemption from 12 months to 9 months in accordance with federal law.

III. Changing the name of the assistant commissioner of insurance to the director of operations.

IV. Allowing group health carriers to use standardized health statements.

V. Requiring health carriers to provide a secure means relative to information for persons seeking coverage through small employer groups.

VI. Clarifying prescription drug benefits under the managed care law.

### **SB 389**, relative to certain insurance contracts. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: This bill would have further extended the period of "continued access" so that affected members would have more time to make alternative arrangements for covered health care. It also would have required that the Insurance Commissioner declare the duration of this discretionary extension of continued access at the beginning of the continued access period and have it communicated to affected members, rather than leaving them unaware of his intention to exercise, or its duration. This proposed legislation was supported by only a few community hospitals and it was strenuously opposed by health insurance carriers and Dartmouth Hitchcock, and failed to gain the support of the Medical Society or the New Hampshire Hospital Association. The committee found the member impact issues to be substantial, even enough to warrant a study of either mandatory or voluntary mediation. The committee felt that this additional safeguard of mediation would need further study, and should be woven into the entire response to the issues raised. Additionally, the Insurance Commissioner has now committed to an earlier exercise of his up to 60 day continued access discretion in order to maximize member awareness of the time available to make other plans for health insurance. Significantly, the committee feels that an existing Statutory Joint Committee (the SB 470 Committee) should examine the effects of such disputes, the mediation approach, and other responses in depth. That committee is already charged with examining the accelerating points of conflict between insurance carriers and health care facilities, their impacts upon affected third parties, particularly consumers and current insurance market trends, pricing, physician contracting, and impacts upon access to health care. Vote 15-0.

### **SB 448-FN**, relative to consumer guaranty contracts. **OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation was introduced as a result of a statutory study committee's efforts following the 2003 legislative session. This proposed legislation accomplishes many things relative to consumer guaranty contracts. A consumer guaranty contract is an agreement for consideration, promises to pay, indemnity, provide specified or determinable amount or benefit, or to do some act of value for another party based upon a determinable risk. In layman's

terms these are extended warranties or service contracts. Typically auto dealers and appliance stores sell them. Contained in the bill is a definition of contingency or peril, which is not insurance and does not warrant full application of the state insurance statutes or rules. Contained in SB 448 are those agreements that are covered services including extended warranties, prepaid legal contracts, debt correction or debit suspension and contracts by the commissioner by rule or order subject to this chapter. This bill contains a plethora of business transactions that are and are not covered by SB 448. Another section includes current law, which defines what is considered covered under the general definitions of what constitutes pre-paid legal services followed by a section as to what is not considered pre-paid legal services. The bill endeavors to identify products delivered by insurers but products that are not traditional and not sold by traditional insurance producers. Further it develops protection for consumers from insurance related exposures associated with these products. The insurance department supported this legislation because of increased complaints regarding service contractors that have gone out of business, and that only some repairs were covered under the previous law (actually a rule) including requirements to meet a deductible or denial of a claim. It attempts to minimize the risk of insolvency, or market abuses. SB 448 will require accountability and stability of obligors. The department has restitution power to order sellers to compensate harmed consumers. It contains fiscal requirements, record keeping and contract disclosures. The legislation contains prohibitions against such issues as false misleading statements or making a contract mandatory. The committee's amendment changes the minimum bonding requirement from \$100,000 to \$25,000 and eliminates the 2% premium tax. Vote 11-0.

#### **Amendment (1155h)**

Amend RSA 415-C:4, I as inserted by section 1 of the bill by replacing it with the following:

I. Posting a bond in the amount of at least \$25,000 or 5 percent of all consumer guarantee contracts sold in New Hampshire, whichever is greater, up to a maximum of \$250,000 and maintaining a reserve account in an amount no less than 40 percent of the gross consideration received for all contract fees from consumer guaranty contracts issued to New Hampshire residents less claims paid;

Amend the bill by deleting section 3 and renumbering the original sections 4-5 to read as 3-4, respectively.

#### **SB 461, relative to the regulation of gift certificates under the consumer protection act. OUGHT TO PASS WITH AMENDMENT**

Rep. Paul D. Spiess for Commerce: The current law states that expiration dates are prohibited on all gift certificates. Gift certificates with a value of \$100 or more, however, must be escheated to the state as abandoned property after five years. This bill, as amended by the Senate would continue the prohibition on expiration dates on all gift certificates, but would eliminate the abandoned property process to the state. The committee believes that the certificate, when purchased, is the property of the holder and as such it would be an unjust enrichment to the retailer to expire or retain any gift certificate over \$100. We recognize that this places a burden on the retailer to account for and report on outstanding certificates. That is why the law draws a distinction between small and large certificates. The committee has amended the Senate bill to make one minor change in the existing law. This change will allow the issuance of gift certificates up to \$100 without being escheated. All certificates in excess of \$100 would fall under the protection of the abandoned property statute. This will allow the issuance of evenly denominated certificates of \$100 without the requirement for accounting for and reporting to the state. Vote 15-0.

#### **Amendment (1265h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Regulation of Business Practices for Consumer Protection; Acts Unlawful; Expiration of Gift Certificates. Amend RSA 358-A:2, XIII to read as follows:

XIII. Selling gift certificates having a face value of [less than] \$100 *or less* to purchasers which contain expiration dates. Gift certificates having a face value *in excess of* \$100 [*or more*] shall expire when escheated to the state as abandoned property pursuant to RSA 471-C. Dormancy fees, latency fees, or any other administrative fees or service charges that have the effect of reducing the total amount for which the holder may redeem a gift certificate are prohibited. This paragraph shall not apply to season passes.

2 Unclaimed and Abandoned Property; Gift Certificates Exempt from Chapter. Amend RSA 71-C:16 to read as follows:

471-C:16 Gift Certificates and Store Credits. Notwithstanding any law to the contrary, gift certificates ~~under~~ of \$100 or less, and store credits that were issued for store merchandise credit, regardless of when issued, shall not be property presumed abandoned and shall not be subject to RSA 471-C or any other past or present law. All gift certificates and store credits remitted to the state prior to January 1, 1998, and gift certificates and store credits that are properly determined to be reportable in any compliance audits initiated prior to January 1, 1998 and subsequently remitted, shall remain in the custody of the state unless and until returned to the owner. This section shall not apply to season passes or coupons that are nonrefundable and nonredeemable.

3 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill prohibits expiration dates on gift certificates of \$100 or less.

#### **SB 418, relative to voting procedures in the Hanover school district. OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: This bill enables the Hanover school district to adopt and implement a method of voting on warrant articles similar to the procedures used by the Dresden, Vermont school district. Additionally, it allows the voters of the Hanover school district to hold school district elections to coincide with voting in the Dresden school district. An amendment to the original bill detailed the specific language to be placed on the ballot and added a provision for cases in which the operating budget not be approved. Vote 17-0.

#### **Amendment (1290h)**

Amend the bill by replacing sections 1 and 2 with the following:

1 Hanover School District; Adoption of Specific Voting Procedures.

I. The Hanover school district shall use a modified method of official ballot voting on all issues before the voters as set forth in this act.

II. The method of voting shall be the same as the official ballot method used by the Dresden school district to the following extent:

(a) Each district meeting shall consist of 2 sessions, a discussion session held on the first meeting day and a voting session to take place during designated hours in the second meeting day.

(b) The discussion session of the meeting shall consist of explanation, discussion, and debate of each warrant article.

(c) Articles shall not be amendable at the discussion session.

(d) All warrant articles shall be proposed in the form of a question to the voters and shall be placed on the official ballot.

(e) All voting to fill elected positions and all voting on warrant articles shall be conducted by secret written ballot during the voting session on the second day of the district meeting.

(f) All requirements pertaining to absentee voting shall apply.

III. Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract, or written agreement and except that the issue of notes or bonds shall be authorized by a vote of 3/5.

IV. The warrant for any annual or special meeting shall prescribe the date, place, and hour for the first and second session of the meeting.

V. Votes taken at the second session shall be subject to recount under RSA 671:32.

VI. Votes taken at the second session shall not be reconsidered.

VII. Notwithstanding RSA 197:1, the 2 sessions of the annual meeting may be held before March 1 or after March 25 to allow for voting in coordination with the Dresden school district.

VIII. The first session of all district meetings shall be deemed the district meeting date for the purposes of budget hearings under RSA 32:5, bond hearings under RSA 33:8-a, the "budget submission date" as defined under RSA 273-A:1, III, submission of petitioned articles under RSA 197:6, and the posting of warrants and budgets under RSA 197:7.

IX. Notwithstanding RSA 671:2, the second session of the annual meeting shall be deemed the annual election date for the purposes of all applicable election statutes including, but not limited to, RSA 671:15, RSA 671:19, and RSA 671:30-32.

X. Except as set forth above, voting at the second session shall conform to the procedures for the non-partisan ballot system as set forth RSA 669:19-25 and RSA 671:20-27, RSA 671:28, and RSA 671:30, including all requirements pertaining to polling place and polling hours.

XI. Except as set forth in this section, the provisions of general law relative to school district meetings, their warning, the right for petitioned articles, and the conduct of district meetings shall apply.

XII. If the operating budget article is not adopted under the modified method of official ballot voting, the governing body may hold a special meeting to take up the issue of a revised operating budget only, provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. The warrant for any special meeting shall prescribe the date, place, and hour for both a first and second session.

## 2 Hanover School District; Ballot Question.

I. The school district clerk shall include on the regular ballot for the election of officers at the first election, occurring at least 30 days after the effective date of this act, a question in the following form:

“Shall the provisions of an act of the 2004 legislative session entitled “An act relative to the voting procedures in the Hanover school district” be adopted, enabling the Hanover school district to adopt a modified method of official ballot voting similar to the official ballot procedures used by the Dresden school district including the following provisions:

(a) The method of voting shall be the same as the official ballot method used by the Dresden school district to the following extent:

(1) Each district meeting shall consist of 2 sessions, a discussion session held on the first meeting day and a voting session to take place during designated hours in the second meeting day.

(2) The discussion session of the meeting shall consist of explanation, discussion, and debate of each warrant article.

(3) Articles shall not be amendable at the discussion session.

(4) All warrant articles shall be proposed in the form of a question to the voters and shall be placed on the official ballot.

(5) All voting to fill elected positions and all voting on warrant articles shall be conducted by secret written ballot during the voting session on the second day of the district meeting.

(6) All requirements pertaining to absentee voting shall apply.

(b) Approval of all warrant articles shall be by simple majority except for questions which require a 2/3 vote by law, contract, or written agreement and except that the issue of notes or bonds shall be authorized by a vote of 3/5.

(c) The warrant for any annual or special meeting shall prescribe the date, place, and hour for the first and second session of the meeting.

(d) Votes taken at the second session shall be subject to recount under RSA 671:32.

(e) Votes taken at the second session shall not be reconsidered.

(f) Notwithstanding RSA 197:1, the 2 sessions of the annual meeting may be held before March 1 or after March 25 to allow for voting in coordination with the Dresden school district.

(g) The first session of all district meetings shall be deemed the district meeting date for the purposes of budget hearings under RSA 32:5, bond hearings under RSA 33:8-a, the “budget submission date” as defined under RSA 273-A:1, III, submission of petitioned articles under RSA 197:6, and the posting of warrants and budgets under RSA 197:7.

(h) Notwithstanding RSA 671:2, the second session of the annual meeting shall be deemed the annual election date for the purposes of all applicable election statutes including, but not limited to, RSA 671:15, RSA 671:19, and RSA 671:30-32.

(i) Except as set forth above, voting at the second session shall conform to the procedures for the non-partisan ballot system as set forth RSA 669:19-25 and RSA 671:20-27, RSA 671:28, and RSA 671:30, including all requirements pertaining to polling place and polling hours.

(j) Except as set forth in this section, the provisions of general law relative to school district meetings, their warning, the right for petitioned articles, and the conduct of district meetings shall apply.

(k) If the operating budget article is not adopted under the modified method of official ballot voting, the governing body may hold a special meeting to take up the issue of a revised operating budget only, provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. The warrant for any special meeting shall prescribe the date, place, and hour for both a first and second session.”

II. Beneath this question shall be printed the word "Yes" and the word "No" with a square immediately opposite each such word in which the voter may indicate his or her choice.

III. A 3/5 majority of those voting on the question shall be required for adoption. Only affirmative or negative votes shall be included in the calculation of the 3/5 majority.

IV. The Hanover school district clerk shall, within 10 days after the election, certify to the secretary of state the result of the vote on the question.

**SB 356**, relative to the powers and duties of the community development finance authority. **OUGHT TO PASS**

Rep. Albert W. Hamel for Executive Departments and Administration: This bill is primarily a housekeeping technical correction to insure that as a result of transferring the functions, authority to make final grants, accept federal funds and adopt rules all move seamlessly from the Office of State Planning to the Community Development Finance Authority. This also provides that personnel involved retain their status as state employees with all benefits. Vote 12-0.

**SB 403**, relative to the board of medicine. **OUGHT TO PASS**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill makes technical changes to license renewal requirements for physicians and surgeons. There are provisions in the bill to: (1) change the date on which the Board of Medicine sends out an application for renewal of license to each licensee; (2) provide the validity of the license "until the board has taken final action" upon timely submission of an application for renewal; (3) establish a 90 day window after expiration when double renewal fees would be required for license renewal; and (4) provide for a reinstatement fee as established by the board for a license which has lapsed for more than 90 days. Vote 12-0.

**SB 459**, making certain changes to the real estate practice act. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill (1) redefines the definition of "associate broker" as a person "employed by ... or under contract, expressed or implied, to a principal broker"; (2) mandates that 40 hours of approved study for a salesperson's license and 60 hours of approved study for a broker's license be completed prior to the date of the applicant's examination.; (3) spells out that the real estate license of a salesperson or associate broker shall be retained by the broker and returned to the commission when the salesperson or associate broker changes his or her affiliation from one broker to another.; (4) makes provision for the expiration of a license if not renewed within six months (renewable with late fee) and lapse of license when not renewed within the 1 year period (must qualify anew as an original applicant), unless the person is ordered to active duty in which case the time window and late fee shall be waived. The amendment deletes section 7 of the bill, which proscribed the submission of personal identifying information "beyond that necessary for property identification to any electronic database or multiple listing service." Vote 16-1.

**Amendment (0981h)**

Amend the bill by deleting section 7 and renumbering the original section 8 to read as 7.

**SB 492**, relative to registration requirements for home inspectors. **INEXPEDIENT TO LEGISLATE**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill calls for the State Building Code Review Board to maintain a register of home inspectors who conduct business within the state. Testimony revealed that there are currently no professional standards, qualifications or requirements for becoming a building inspector in this state. Having the ability to cite that one is registered with the state may convey a misleading impression to a potential home buyer that the individual performing the inspection is qualified by training and/or education and is committed to continued education. The committee is convinced that the best course of action would be the introduction of legislation with appropriate training and enforcement provisions in the next legislative session. Vote 12-0.

**SB 341-FN**, relative to prohibited methods of taking wildlife in certain fish and game laws. **INEXPEDIENT TO LEGISLATE**

Rep. Robert J. Laflam for Fish and Game: This bill is exactly the same as HB 440 that the House concurred with last week. Therefore, this bill is unnecessary. Vote 14-0.

**SB 433-FN**, establishing a committee to study utility rate review by the public utilities commission. **INEXPEDIENT TO LEGISLATE**

Rep. John H. Thomas for Science, Technology and Energy: This bill establishes a committee to study utility rate review by the Public Utilities Commission (PUC). To familiarize the newer members of the Science, Technology & Energy Committee as to the full duties of the PUC, the commissioners and division heads of the commission gave a presentation. The commission outlined their duties and statutory requirements as regulators of the various utilities. The most important aspects learned by the committee were that the PUC could institute a rate case whenever they deem necessary on any regulated utility. There have been 23 full-blown rate cases over the last decade, 16 on the telephone industry alone. These do not include desk and field audits of those cases initiated by FERC or the FCC. Three of those cases on Verizon resulted in lower rates. It was also found that a full rate case could cost \$500,000 to \$1,500,000 each. That cost is passed directly to the ratepayer. The committee felt the PUC is doing what it was designed to do and another study committee is not needed. The committee did feel that with three oversight committees and the Science, Technology & Energy Committee, to which the PUC responds, we might find this legislation would be needed in the future. Vote 11-0.

**SB 443**, relative to rural electric cooperatives. **OUGHT TO PASS WITH AMENDMENT**

Rep. John H. Thomas for Science, Technology and Energy: This bill delineates the authority and jurisdiction of the Public Utilities Commission (PUC) under the electric utility restructuring laws with respect to rural electric cooperatives. The commission shall exercise its authority on deregulated electric cooperatives having a certificate of deregulation on file to the extent that the commission finds that such action is required to ensure that such cooperatives do not act in a manner that is inconsistent with the restructuring principles of RSA 374-F: 3. The commission shall also have the authority to require the deregulated cooperative participate in required proceedings. The bill also establishes an energy advisory board to monitor and assist in the implementation of the New Hampshire Energy Plan prepared by the governor's Office of Energy and Community Services pursuant to 2001, chapter 121. The primary duties of the board shall be to discuss energy planning and development at the state level and develop strategic planning for the state's energy plan. Vote 11-0.

#### **Amendment (1176h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to rural electric cooperatives and establishing an energy planning advisory board.

Amend the bill by replacing all after section 1 with the following:

#### **2 Energy Planning Advisory Board.**

I. There is established an energy planning advisory board. The board is established to monitor and assist in the implementation of the New Hampshire Energy Plan prepared by the governor's office of energy and community services pursuant to 2001, 121.

II.(a) The members of the committee shall be as follows:

- (1) The governor, or designee.
- (2) One member representing the office of state planning and energy programs.
- (3) One member of the senate energy and economic development committee, appointed by the president of the senate.
- (4) One member of the house science, technology, and energy committee, appointed by the speaker of the house of representatives.
- (5) Two members representing the public utilities commission, appointed by the chairman.
- (6) One member representing the department of administrative services, appointed by the commissioner.
- (7) One member representing the department of environmental services, appointed by the commissioner.
- (8) One member representing the university system of New Hampshire, appointed by the chancellor.
- (9) One member representing the department of transportation, appointed by the commissioner.
- (10) One member representing the department of resources and economic development, appointed by the commissioner.

(11) The consumer advocate, or designee.

(12) Two members of the business and industry community, appointed by the governor and council.

(b) The legislative members of the committee shall serve for the duration of their legislative term, and shall receive mileage at the legislative rate when attending to the duties of the board. Other members of the board shall serve for 3 years and until a successor is appointed.

### III. Duties.

(a) The primary duties of the board shall be to meet on a regular basis to discuss energy policy and planning at the state level and develop strategic planning for the state's energy policies that include, but shall not be limited to:

(1) Supply and demand for energy resources.

(2) Transmission and distribution infrastructure for electricity, natural gas, and other transportable energy.

(3) Fuel diversity within the state and region.

(4) Supporting the department of transportation's planning efforts.

(5) Deliverable fuels.

(6) Energy efficiency and conservation opportunities.

(7) The state's role as a major energy consumer.

(8) The environmental effects of energy generation, transmission, and distribution.

(9) New Hampshire's role in regional energy issues.

(10) Periodic revision and update of the New Hampshire Energy Plan for currency as circumstances change.

(b) The board may consult and participate with members and groups of the business and residential communities within the state that may have important perspectives on energy planning.

IV. The members of the board shall elect a chairperson from among the members.

V. The board shall report annually to the governor, the speaker of the house of representatives, and the president of the senate.

3 Repeal. Section 2 of this act, relative to the energy planning advisory board, is repealed.

4 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Section 3 of this act shall take effect November 1, 2012.

III. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill delineates the authority and jurisdiction of the public utilities commission under the electric utility restructuring laws with respect to rural electric cooperatives. This bill also establishes an energy planning advisory board.

### **SB 495-FN, relative to original and youth operators' licenses. OUGHT TO PASS WITH AMENDMENT**

Rep. Sherman A. Packard for Transportation: This bill re-institutes the authority of the Department of Safety to suspend or revoke any original license upon a conviction of a violation. Before suspension, the convicted party will be given a hearing by a hearing officer. The periods of suspension are: first offense – 20 days; second offense – 45 days; third offense – 90 days. This is a program that was in effect for many years before it was repealed two years ago. It is felt by most in the highway safety field that this law is one of the most effective ways to control the overzealous driving habits of many of our youth. The fear of losing their licenses may well be one of the only methods that keeps them alive, or from being seriously injured. Vote 12-0.

### **Amendment (1184h)**

Amend the bill by replacing section 4 with the following:

4 Original License; Revocation and Suspension. Amend RSA 263:14, III(a)-(b) to read as follows:

III.(a) The director is authorized to revoke or suspend any original license ~~[issued under title XXF]~~ *held by a person under 20 years of age* after a hearing upon a showing by its records or other sufficient evidence that the driver has committed an offense ~~[during the first year following the issuance of an original license or has committed 2 or more offenses during the first 2 years], excluding the offenses of RSA 261:40, RSA 261:59, and RSA 266:5,~~ following the issuance of an original license for which the original license holder has been convicted.



(b) The periods of suspension or revocation set forth in subparagraph III(a) of this section shall be as follows:

(1) For a first offense [~~during the first year following the issuance of an original license~~] 20 days.

(2) For a second offense [~~during the first 2 years following the issuance of an original license~~] 45 days.

(3) For a third or subsequent offense [~~during the first 2 years following the issuance of an original license~~] 90 days.

**SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway. **OUGHT TO PASS WITH AMENDMENT**

Rep. Robert J. Letourneau for Transportation: This establishes the duties of a motorist approaching a highway emergency or blockage and adds the requirement of motorists to avoid blocking highways whenever possible. Additionally, the bill requires drivers of vehicles involved in an accident to move the vehicle to an untraveled portion of the highway, if possible. The amendment only adds 2 words to the statute, "non-emergency", at the request of the fire chiefs to be clear that only non-emergency vehicles are subject to removal. Vote 12-0.

#### Amendment (1136h)

Amend the bill by inserting after the enacting clause the following and renumbering the original sections 1-4 to read as 2-5, respectively:

1 Statement of Intent. It is the intent of the legislature to facilitate, as rapidly as practical, clearance of roadways during traffic collisions, natural disasters, special events, and other emergencies, to the extent that this may be accomplished without endangering emergency responders or the public and without destroying criminal evidence. The legislature finds that roadway clearance will be improved through the use of principles of the national interagency incident command system and by fostering coordination, cooperation, and the use of a unified command among police agencies, fire departments, emergency medical response units, departments of transportation and other public and private entities that respond to such situations.

Amend RSA 154:7-b, II as inserted by section 2 of the bill by replacing it with the following:

II. Police officers at the scene may treat any non-emergency vehicle that is obstructing traffic as abandoned for the purposes of RSA 262:31 through RSA 262:40-c, and may order its immediate removal, with or without the consent of the owner or operator. Any spilled cargo or other property obstructing traffic may be treated as a vehicle for the purposes of RSA 262:32 through RSA 262:37, and may be subject to immediate removal with or without the consent of the owner or carrier.

**SB 470-FN**, relative to funding for the physician effectiveness program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Susan W. Almy for Ways and Means: The policy of this bill was already passed by the House. The committee, realizing that the fee in question is actually raised by the Medical Society itself, accepted the fee increase. The fund is not now recognized in the statutory dedicated fund list, and the amendment puts it there. Vote 15-0.

#### Amendment (1288h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to funding for the physician effectiveness program, and establishing a dedicated fund.

Amend the bill by replacing all after the enacting clause with the following:

1 Physician Effectiveness Program; Funding. Amend RSA 329:13-b, V(b) to read as follows:

(b) *There is established in the office of the state treasurer a nonlapsing fund to be known as the physician effectiveness program fund which shall be kept distinct and separate from all other funds.* The board shall allocate [~~\$20~~] \$30 from each physician license renewal fee it collects to [~~provide funding~~] *the fund* for the physician effectiveness program as set forth in subparagraph V(a).

2 New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the physician effectiveness program fund under RSA 329:13-b, V(b).

3 Effective Date. This act shall take effect July 1, 2004.

### AMENDED ANALYSIS

This bill raises the contribution to the physician effectiveness program from \$20 to \$30 and establishes a dedicated fund.

### REGULAR CALENDAR

**SB 427**, relative to the definition of marriage. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Tony F. Soltani for the Majority of Judiciary: This bill, as amended by the committee, will apply a uniform standard to all marriages regardless of the location where the marriage was celebrated. The bill also treats New Hampshire residents the same as non-New Hampshire residents for the purposes of legally recognized marriages. Finally, the bill establishes a commission to study the issue of same sex unions and legal implications of such partnership. A decision issued by the supreme court of another state has mandated same sex marriages. This act prompted an examination of New Hampshire laws. The legislature discovered a significant loophole in our laws. Currently New Hampshire recognizes all marriages entered into by non-New Hampshire residents, so long as the marriage was legal where celebrated, even though the marriage would be prohibited for New Hampshire residents and could not legally be performed in this state. This creates a double standard where residents are treated significantly different from non-residents. The law is also a substantial abrogation of New Hampshire's right to establish its own public policy through our elected representatives. The majority amendment plugs a legal loophole, asserts New Hampshire's authority to establish public policy as to what may constitute a marriage within this state, treats residents and non-residents equally and finally establishes a study commission to examine all aspects of same sex unions. This is an issue which is at the forefront of social discourse and deserves meticulous and detailed examination. Until the issue is thoroughly examined, it is the responsibility of the New Hampshire legislature to ensure that our public policy is not governed by out-of-state courts, executives or legislatures. Vote 13-8.

Rep. James W. Craig for the Minority of Judiciary: This bill puts the cart before the horse. It changes New Hampshire law that has existed since 1965 and then mandates a study. New Hampshire law, since 1965, gives full faith and credit to any marriage legally contracted outside of this state. The minority believes that the changes made in RSA 457:3 by this bill prior to any study discriminates against same sex couples no matter how you spin it.

### Majority Amendment (1323h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to legal recognition of out-of-state marriages and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.

Amend the bill by replacing all after the enacting clause with the following:

1 Recognition of Out-of-State Marriages. RSA 457:3 is repealed and reenacted to read as follows:  
 457:3 Recognition of Out-of-State Marriages. Every marriage legally contracted outside the state of New Hampshire, which would not be prohibited under RSA 457:1 or RSA 457:2 if contracted in New Hampshire, shall be recognized as valid in this state for all purposes if or once the contracting parties are or become permanent residents of this state subsequent to such marriage, and the issue of any such marriage shall be legitimate. Marriages legally contracted outside the state of New Hampshire which would be prohibited under RSA 457:1 or RSA 457:2 if contracted in New Hampshire shall not be legally recognized in this state. Any marriage of New Hampshire residents recognized as valid in the state prior to the effective date of this section shall continue to be recognized as valid on or after the effective date of this section.

2 Commission Established. There is established a commission to study all aspects of same sex civil marriage and the legal equivalents thereof, whether referred to as civil unions, domestic partnerships, or otherwise.

#### 3 Membership and Compensation.

I. The members of the commission shall be as follows:

- (a) Four members of the house of representatives, appointed by the speaker of the house.
- (b) Four members of the senate, appointed by the president of the senate.
- (c) The attorney general, or designee.
- (d) One representative from the department of health and human services, appointed by the commissioner of health and human services.

(e) One representative of the governor's office, appointed by the governor.

(f) Four public members, 2 of whom shall be appointed by the speaker of the house and 2 of whom shall be appointed by the president of the senate.

(g) The chief justice of the superior court, or designee.

(h) The administrative judge of the probate courts, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

4 Duties. The commission shall examine all aspects of same sex civil marriage and the legal equivalent thereof, whether referred to as civil unions, domestic partnerships, or otherwise. The commission's study shall include, but shall not be limited to:

I. All the legal and policy implications of extending some or all of the rights and responsibilities of marriage to same sex couples.

II. Examination of all issues of civil rights, responsibilities, laws, and legal obligations related to same sex unions, including the applicability of the laws of other states to New Hampshire.

5 Chairperson; Quorum; Notice of Meetings.

I. The commission shall choose a chairperson, vice-chairperson, and clerk at its first meeting. The clerk shall keep a complete record of the proceedings of the commission and may call upon the resources of the legislature for assistance.

II. The first meeting of the commission shall be called by the first-named house member and shall be held within 45 days of the effective date of this section. A majority of the members of the commission shall constitute a quorum.

III. Notice of all commission meetings shall be printed in the house and senate calendars. Commission meetings shall be open to the public.

6 Report. The commission shall make a final report to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2005.

7 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill recognizes any legally contracted out-of-state marriage which would not be prohibited under New Hampshire law.

This bill establishes a commission to examine all aspects of same sex civil marriage and its legal equivalents.

Rep. John Pratt spoke against.

Rep. Soltani spoke in favor.

Reps. Splaine, Lasky, Buckley, Potter, Franklin and Jacobson spoke against.

### (Rep. Whalley in the Chair)

Reps. Corbin, Vaillancourt, Craig, Clemons, Jane Kelley, Chris Pappas, Leach, Diamond, Mitchell, and Peter Allen spoke against.

Rep. Phyllis Woods spoke in favor.

Rep. Marjorie Smith spoke against.

Rep. Haytayan spoke in favor.

### (Speaker Chandler in the Chair)

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of the majority committee amendment.

**YEAS 213 NAYS 140**

**YEAS 213**

**BELKNAP**

Ahern, Omer Jr  
Dewhurst, Glenn  
Lafam, Robert  
Russell, David

Allen, Janet  
Fitzgerald, James  
Lawton, David  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Nedeau, Stephen  
Wendelboe, Fran

Clark, Charles  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Royce, H Charles	Smith, Edwin

**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Dudley, Terri	Eaton, Stephanie	Gilman, G Michael	Giuda, Robert
Ingbertson, Paul	Maybeck, Margie	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buhlman, David	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela
Crane, Elenore Casey	Desmarais, Vivian	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Gargas, Carolyn	Gibson, John	Gonzalez, Carlos
Goyette, Peter Jr	Graham, John	Hagan, Barbara	Haley, Robert
Hall, Charles	Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Holden, Randolph	Hopper, Gary
Hunter, Bruce	Infantine, William	Jasper, Shawn	Jean, Claudette
Kurk, Neal	L'Heureux, Robert	Luebckert, Bernard	McDonough-Wallace, Alice
McElroy, Henry Jr	McHugh, Claire	McRae, Karen	Mercer, Robert
Mooney, Maureen	Moran, Edward	Mosher, William	Pepino, Leo
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Rowe, Robert
Scanlon, Michael	Slocum, Lee	Souza, Kathleen	Tahir, Saghir
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Dunne, Christopher	Field, William	Foley, Albert
Hess, David	Langer, Ray	Leber, William	Marple, Richard
Maxfield, Roy	McCormick, Tom	Nutter, Edward	Oliver, James
Reed, Dennis	Soltani, Tony		

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Cooney, Richard
DiFruscia, Anthony	Dodge, Robert	Dowd, John	Doyle, Christopher
Dumaine, Dudley	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas	Gleason, John
Griffin, Mary	Hamel, Albert	Headd, James	Holland, James Jr
Hughes, Daniel	Ingram, Russell	Itse, Daniel	Johnson, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Langley, Jane	Langone, John	Letourneau, Robert	Major, Norman
Manning, John	McKinney, Betsy	McMahon, Charles	Noyes, Richard
O'Neil, Michael	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Roessner, Kurt	Ruffner, Walter	Smith, Donald
Smith, Paul	Stone, Joseph	Tufts, J Arthur	Varrell, Thomas
Waterhouse, Kevin	Weare, E Albert	Welch, David	Weldy, Norman Jr
Weyler, Kenneth	Wiley, Robert	Winchell, George	Zolla, William

**STRAFFORD**

Albert, Russell  
Campbell, W Packy  
Hollinger, Jeffrey  
Twombly, James

Bemis, Alan  
Cataldo, Sam  
Musler, George  
Woods, Phyllis

Berube, Roger  
Easson, Timothy  
Newton, Clifford

Callaghan, Frank  
Hofemann, Roland  
Scott, David

**SULLIVAN**

Donovan, Thomas

Jones, Constance

Leone, Richard

Rodeschin, Beverly

**NAYS 140****BELKNAP**

Pilliod, James

**CARROLL**

Dickinson, Howard

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter  
Meador, David  
Pratt, John  
Tilton, Anna

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Espiefs, Peter  
Pratt, Irene  
Slack, Pamela

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Cooney, Mary  
Naro, Debra  
Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin  
Cote, David  
Drisko, Richard  
Hinkle, Peyton  
Kopka, Angeline  
Lefebvre, Roland  
O'Brien, Lori  
Schulze, Joan  
Sullivan, Peter

Buckley, Raymond  
Cote, Peter  
Elliott, Larry  
Irwin, Anne-Marie  
LaFlamme, Paul  
Malloy, Chris  
Palangas, Eric  
Shaw, Barbara  
Sweeney, Cynthia

Cail, Kenneth  
Craig, James  
Ford, Nancy  
Johnson, Lionel  
Lasky, Bette  
Messier, Irene  
Pappas, Christopher  
Spiess, Paul  
Tate, Joan

Clemons, Jane  
Dionne, Kimberley  
Gorman, Mary  
Katsiantonis, Thomas  
Leach, Edward  
Michon, Stephen  
Ross, Lawrence  
Sullivan, Francis  
Vaillancourt, Steve

**MERRIMACK**

Blanchard, Elizabeth  
Currier, David  
Fraser, Leo Jr  
Jacobson, Alf  
MacKay, James  
Potter, Frances  
Seldin, Gloria

Bouchard, Candace  
Daniels, Eric  
French, Barbara  
Kenison, Leon  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

Brueggemann, Donald  
Davis, Frank  
Gile, Mary  
Kennedy, Richard  
Owen, Derek  
Rodd, Beth

Clarke, Claire  
DeJoie, John  
Hamm, Christine  
Lockwood, Priscilla  
Perkins, Randy  
Rush, Deanna

**ROCKINGHAM**

Abbott, Dennis  
Corbin, Corey  
McEachern, Paul  
Robertson, Carl  
Vallone, Matthew

Bishop, Franklin  
Gould, Kenneth  
Norelli, Terie  
Scamman, Stella

Blanchard, MaryAnn  
Hutchinson, Karen  
Pantelakos, Laura  
Shultis, Elizabeth

Coes, Betsy  
Kelley, Jane  
Pitts, Jacqueline  
Splaine, James

**STRAFFORD**

Bickford, David  
Grassie, Anne

Brown, Julie  
Harrington, Michael

Creteau, Irene  
Johnson, Nancy

Dunlap, Patricia  
Kaen, Naida

Keans, Sandra  
 Rollo, Deanna  
 Snyder, Clair  
 Wall, Janet

Knowles, William  
 Rous, Emma  
 Spang, Judith

Miller, Joseph  
 Schmidt, Peter  
 Taylor, Katherine

Pelletier, Arthur  
 Smith, Marjorie  
 Taylor, Kathleen

### SULLIVAN

Allison, David  
 Flint, Gordon Sr

Burling, Peter  
 Franklin, Peter

Cloutier, John  
 Phinzy, James

Ferland, Brenda

and the majority committee amendment was adopted.

Rep. Lasky offered a floor amendment (1410h) and spoke in favor.

### Floor Amendment (1410h)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study all aspects of same sex civil marriage and the legal equivalents thereof, whether referred to as civil unions, domestic partnerships, or otherwise.

#### 2 Membership and Compensation.

##### I. The members of the commission shall be as follows:

(a) Four members of the house of representatives, appointed by the speaker of the house. Of these house members, one shall be a member of the children and family law committee, one shall be a member of the judiciary committee, one shall be a member of the health, human services, and elderly affairs committee, and one shall be a member of the commerce committee.

(b) Four members of the senate, appointed by the president of the senate.

(c) The attorney general, or designee.

(d) The commissioner of health and human services, or designee.

(e) One representative of the governor's office, appointed by the governor.

(f) Four public members, 2 of whom shall be appointed by the speaker of the house and 2 of whom shall be appointed by the president of the senate.

(g) The chief justice of the superior court, or designee.

(h) The administrative judge of the probate courts, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall examine all aspects of same sex civil marriage and the legal equivalent thereof, whether referred to as civil unions, domestic partnerships, or otherwise. The commission's study shall include, but shall not be limited to:

I. All the legal and policy implications of extending some or all of the rights and responsibilities of marriage to same sex couples.

II. Examination of all issues of civil rights, responsibilities, laws, and legal obligations related to same sex unions, including the applicability of the laws of other states to New Hampshire.

#### 4 Chairperson; Quorum; Notice of Meetings.

I. The commission shall choose a chairperson, vice-chairperson, and clerk at its first meeting. The clerk shall keep a complete record of the proceedings of the commission and may call upon the resources of the legislature for assistance.

II. The first meeting of the commission shall be called by the first-named house member and shall be held within 45 days of the effective date of this section. A majority of the members of the commission shall constitute a quorum. At the discretion of the commission, meetings may be held throughout the state.

III. Notice of all commission meetings shall be printed in the house and senate calendars. Commission meetings shall be open to the public.

5 Report. The commission shall make a final report to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2005.

6 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill establishes a commission to examine all aspects of same sex civil marriage and its legal equivalents.

Rep. Mock spoke against.

Rep. Karen Hutchinson requested a roll call; sufficiently seconded.

The question being adoption of floor amendment (1410h).

**YEAS 143 NAYS 210****YEAS 143  
BELKNAP**

Pilliod, James

**CARROLL**

Dickinson, Howard

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter  
Meader, David  
Pratt, John  
Tilton, Anna

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Espieffs, Peter  
Pratt, Irene  
Slack, Pamela

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Cooney, Mary  
Naro, Debra  
Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin  
Cote, David  
Drisko, Richard  
Gorman, Mary  
Katsiantonis, Thomas  
Leach, Edward  
Messier, Irene  
Pappas, Christopher  
Spiess, Paul  
Tate, Joan

Buckley, Raymond  
Cote, Peter  
Elliott, Larry  
Holden, Randolph  
Kopka, Angeline  
Lefebvre, Roland  
Michon, Stephen  
Ross, Lawrence  
Sullivan, Francis  
Vaillancourt, Steve

Cail, Kenneth  
Craig, James  
Ford, Nancy  
Irwin, Anne-Marie  
LaFlamme, Paul  
Malloy, Chris  
Mosher, William  
Schulze, Joan  
Sullivan, Peter

Clemons, Jane  
Dionne, Kimberley  
Gargas, Carolyn  
Johnson, Lionel  
Lasky, Bette  
McDonough-Wallace, Alice  
Palangas, Eric  
Shaw, Barbara  
Sweeney, Cynthia

**MERRIMACK**

Blanchard, Elizabeth  
Daniels, Eric  
French, Barbara  
Kenison, Leon  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

Bouchard, Candace  
Davis, Frank  
Gile, Mary  
Kennedy, Richard  
Owen, Derek  
Rodd, Beth

Brueggemann, Donald  
DeJolie, John  
Hamm, Christine  
Lockwood, Priscilla  
Perkins, Randy  
Rush, Deanna

Clarke, Claire  
Fraser, Leo Jr  
Jacobson, Alf  
MacKay, James  
Potter, Frances  
Seldin, Gloria

**ROCKINGHAM**

Abbott, Dennis  
Corbin, Corey  
Kelley, Jane  
Pitts, Jacqueline  
Splaine, James

Bishop, Franklin  
DiFruscia, Anthony  
McEachern, Paul  
Robertson, Carl  
Vallone, Matthew

Blanchard, MaryAnn  
Gould, Kenneth  
Norelli, Terie  
Scamman, Stella

Coes, Betsy  
Hutchinson, Karen  
Pantelakos, Laura  
Shultis, Elizabeth

**STRAFFORD**

Bickford, David	Brown, Julie	Campbell, W Packy	Creteau, Irene
Dunlap, Patricia	Grassie, Anne	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Pelletier, Arthur	Rollo, Deanna	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Franklin, Peter	Jones, Constance	Phinizy, James	

**NAYS 210**

**BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Clark, Charles
Dewhirst, Glenn	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Laffam, Robert	Lawton, David	Nedeau, Stephen	Rice, Thomas
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Merrow, Harry	Mock, Henry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Royce, H Charles	Smith, Edwin

**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Dudley, Terri	Eaton, Stephanie	Gilman, G Michael	Giuda, Robert
Ingbertson, Paul	Maybeck, Margie	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buhlman, David	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela
Crane, Elenore Casey	Desmarais, Vivian	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr
Graham, John	Hagan, Barbara	Haley, Robert	Hall, Charles
Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul	Hawkins, Ken
Haytayan, Harry Jr	Hinkle, Peyton	Hopper, Gary	Hunter, Bruce
Infantine, William	Jasper, Shawn	Jean, Claudette	Kurk, Neal
L'Heureux, Robert	Luebker, Bernard	McElroy, Henry Jr	McHugh, Claire
McRae, Karen	Mercer, Robert	Mooney, Maureen	Moran, Edward
O'Brien, Lori	Pepino, Leo	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Rowe, Robert	Scanlon, Michael	Slocum, Lee
Souza, Kathleen	Tahir, Saghir	Wheeler, James	Wheeler, Robert

**MERRIMACK**

Anderson, Eric	Currier, David	Dunne, Christopher	Field, William
Foley, Albert	Hess, David	Langer, Ray	Leber, William
Marple, Richard	Maxfield, Roy	McCormick, Tom	Nutter, Edward
Oliver, James	Reed, Dennis	Soltani, Tony	



**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Cooney, Richard
Dodge, Robert	Dowd, John	Doyle, Christopher	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey
Gilbert, Karl	Gillick, Thomas	Gleason, John	Griffin, Mary
Hamel, Albert	Headd, James	Holland, James Jr	Hughes, Daniel
Ingram, Russell	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Major, Norman	Manning, John
McKinney, Betsy	McMahon, Charles	Noyes, Richard	O'Neil, Michael
Priestley, Anne	Putnam, Ed II	Quandt, Matthew	Rausch, James
Roessner, Kurt	Ruffner, Walter	Smith, Donald	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Varrell, Thomas	Waterhouse, Kevin
Weare, E Albert	Welch, David	Weldy, Norman Jr	Weyler, Kenneth
Wiley, Robert	Winchell, George	Zolla, William	

**STRAFFORD**

Albert, Russell	Bemis, Alan	Berube, Roger	Callaghan, Frank
Cataldo, Sam	Easson, Timothy	Harrington, Michael	Hollinger, Jeffrey
Musler, George	Newton, Clifford	Scott, David	Twombly, James
Woods, Phyllis			

**SULLIVAN**

Donovan, Thomas	Flint, Gordon Sr	Leone, Richard	Rodeschin, Beverly
and floor amendment (1410h) failed.			
Rep. Letourneau offered a floor amendment (1430h).			

**Floor Amendment (1430h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to legal recognition of out-of-state marriages, relative to the definition of marriage, and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.

Amend the bill by inserting after section 1 the following and renumbering the original sections 2-7 to read as 3-8, respectively:

2 New Section; Definition of Marriage. Amend RSA 21 by inserting after section 49 the following new section:

21:50 Definition of Marriage. For purposes of New Hampshire law, "marriage" means only a legal union between one man and one woman as husband and wife.

Rep. Letourneau spoke in favor.

Rep. Haytayan spoke against.

On a division vote, 57 members having voted in the affirmative and 294 in the negative, floor amendment (1430h) failed.

The question now being adoption of the majority committee report.

Rep. Daniels spoke against.

**MOTION TO LAY ON THE TABLE**

Rep. Phinizy moved that **SB 427**, relative to the definition of marriage, be laid on the table.

Rep. Vaillancourt requested a roll call; sufficiently seconded.

The question being to lay **SB 427**, relative to the definition of marriage, on the table.

**YEAS 139 NAYS 212**

**YEAS 139  
BELKNAP**

Pilliod, James

**CARROLL**

Dickinson, Howard

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Richardson, Barbara	Robertson, Timothy	Tilton, Anna
Webber, Amy	Weed, Charles		

**COOS**

Mears, Edgar	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Almy, Susan	Benn, Bernard	Bleyler, Ruth	Cooney, Mary
Densmore, Edward	Diamond, Estelle	Hammond, Lee	Naro, Debra
Nordgren, Sharon	Scovner, Nancy	Sokol, Hilda	Solomon, Peter

**HILLSBOROUGH**

Buckley, Raymond	Clemons, Jane	Cote, David	Cote, Peter
Craig, James	Dionne, Kimberley	Drisko, Richard	Elliott, Larry
Gargas, Carolyn	Gorman, Mary	Hall, Charles	Holden, Randolph
Irwin, Anne-Marie	Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline
LaFlamme, Paul	Lasky, Bette	Leach, Edward	Lefebvre, Roland
Malloy, Chris	McDonough-Wallace, Alice	Messier, Irene	Michon, Stephen
Mosher, William	O'Brien, Lori	Palangas, Eric	Pappas, Christopher
Schulze, Joan	Shaw, Barbara	Spies, Paul	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia	Tate, Joan	Vaillancourt, Steve

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Daniels, Eric	Davis, Frank	DeJoie, John	Fraser, Leo Jr
French, Barbara	Gile, Mary	Hamm, Christine	Kenison, Leon
Kennedy, Richard	MacKay, James	Osborne, Jessie	Owen, Derek
Perkins, Randy	Potter, Frances	Reardon, Tara	Rodd, Beth
Rush, Deanna	Seldin, Gloria	Wallner, Mary Jane	

**ROCKINGHAM**

Abbott, Dennis	Bishop, Franklin	Blanchard, MaryAnn	Coes, Betsy
Corbin, Corey	DiFruscia, Anthony	Gould, Kenneth	Hutchinson, Karen
Kelley, Jane	McEachern, Paul	Norelli, Terie	Pantelakos, Laura
Pitts, Jacqueline	Robertson, Carl	Scamman, Stella	Shultis, Elizabeth
Splaine, James	Vallone, Matthew		

**STRAFFORD**

Bickford, David	Brown, Julie	Campbell, W Packy	Creteau, Irene
Grassie, Anne	Harrington, Michael	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Pelletier, Arthur	Rollo, Deanna	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Taylor, Katherine
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Jones, Constance	Phinizy, James

**NAYS 212****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Clark, Charles
Dewhirst, Glenn	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Laflam, Robert	Lawton, David	Nedea, Stephen	Rice, Thomas
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Royce, H Charles	Smith, Edwin

**COOS**

Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Dudley, Terri	Eaton, Stephanie	Gilman, G Michael	Giuda, Robert
Ingbreton, Paul	Maybeck, Margie	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buhlman, David	Cail, Kenneth	Carter, Jeffrey	Carter, Mark
Cernota, Albert	Chabot, Robert	Christensen, D L Chris	Christiansen, Lars
Coughlin, Pamela	Crane, Elenore Casey	Desmarais, Vivian	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Gibson, John
Gonzalez, Carlos	Goyette, Peter Jr	Graham, John	Hagan, Barbara
Haley, Robert	Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton	Hopper, Gary
Hunter, Bruce	Infantine, William	Jasper, Shawn	Jean, Claudette
Kurk, Neal	L'Heureux, Robert	Luebker, Bernard	McElroy, Henry Jr
McHugh, Claire	McRae, Karen	Mercer, Robert	Mooney, Maureen
Moran, Edward	Pepino, Leo	Pilotte, Maurice	Price, Pamela
Reeves, Sandra	Ross, Lawrence	Rowe, Robert	Scanlon, Michael
Slocum, Lee	Souza, Kathleen	Tahir, Saghir	Wheeler, James
Wheeler, Robert			

**MERRIMACK**

Anderson, Eric	Currier, David	Dunne, Christopher	Field, William
Foley, Albert	Hess, David	Jacobson, Alf	Langer, Ray
Leber, William	Lockwood, Priscilla	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Oliver, James	Reed, Dennis
Soltani, Tony			

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Cooney, Richard
Dodge, Robert	Dowd, John	Doyle, Christopher	Dumaine, Dudley
Fesh, Bob	Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey
Gilbert, Karl	Gillick, Thomas	Gleason, John	Griffin, Mary
Hamel, Albert	Headd, James	Holland, James Jr	Hughes, Daniel
Ingram, Russell	Itse, Daniel	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Major, Norman	Manning, John
McKinney, Betsy	McMahon, Charles	Noyes, Richard	O'Neil, Michael
Priestley, Anne	Putnam, Ed II	Quandt, Matthew	Rausch, James
Roessner, Kurt	Ruffner, Walter	Smith, Donald	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Varrell, Thomas	Waterhouse, Kevin
Weare, E Albert	Welch, David	Weldy, Norman Jr	Weyler, Kenneth
Wiley, Robert	Winchell, George	Zolla, William	

**STRAFFORD**

Albert, Russell	Bemis, Alan	Berube, Roger	Callaghan, Frank
Cataldo, Sam	Dunlap, Patricia	Easson, Timothy	Hollinger, Jeffrey
Musler, George	Newton, Clifford	Scott, David	Twombly, James
Woods, Phyllis			

**SULLIVAN**

Donovan, Thomas      Leone, Richard      Rodeschin, Beverly  
 and the motion to lay SB 427 on the table failed.  
 The question now being adoption of the majority committee report.  
 Rep. Soltani spoke in favor.  
 Rep. Buckley requested a roll call; sufficiently seconded.  
 The question being adoption of the majority committee report.

**YEAS 215 NAYS 137****YEAS 215****BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Clark, Charles
Dewhirst, Glenn	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Lafam, Robert	Lawton, David	Nedean, Stephen	Rice, Thomas
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Hatch, Paul
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Patten, Betsey	Philbrick, Donald	Stevens, Stanley	

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Royce, H Charles	Smith, Edwin
COOS			
Brady, Mark	Guay, Lawrence	King, Frederick	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Barker, Robert	Dorsett, Andrew
Dudley, Terri	Eaton, Stephanie	Gilman, G Michael	Giuda, Robert
Ingbertson, Paul	Maybeck, Margie	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Bruno, Pierre
Buhlman, David	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christensen, D L Chris	Christiansen, Lars	Coughlin, Pamela
Crane, Elenore Casey	Desmarais, Vivian	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Gargas, Carolyn	Gibson, John	Gonzalez, Carlos
Goyette, Peter Jr	Graham, John	Hagan, Barbara	Haley, Robert
Hall, Charles	Hallyburton, Margaret	Hansen, Ryan	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton	Holden, Randolph
Hopper, Gary	Hunter, Bruce	Infantine, William	Jasper, Shawn
Jean, Claudette	Kurk, Neal	L'Heureux, Robert	Luebker, Bernard
McDonough-Wallace, Alice	McElroy, Henry Jr	McHugh, Claire	McRae, Karen
Mercer, Robert	Mooney, Maureen	Moran, Edward	Pepino, Leo
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Rowe, Robert
Scanlon, Michael	Slocum, Lee	Souza, Kathleen	Tahir, Saghir
Tate, Joan	Wheeler, James	Wheeler, Robert	

**MERRIMACK**

Anderson, Eric  
Foley, Albert  
Leber, William  
Nutter, Edward

Currier, David  
Hess, David  
Marple, Richard  
Oliver, James

Dunne, Christopher  
Kennedy, Richard  
Maxfield, Roy  
Reed, Dennis

Field, William  
Langer, Ray  
McCormick, Tom  
Soltani, Tony

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
DiFruscia, Anthony  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Johnson, Rogers  
Langley, Jane  
Manning, John  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

Belanger, Ronald  
Camm, Kevin  
Dodge, Robert  
Fesh, Bob  
Gilbert, Karl  
Hamel, Albert  
Ingram, Russell  
Katsakiores, George  
Langone, John  
McKinney, Betsy  
Putnam, Ed II  
Ruffner, Walter  
Tufts, J Arthur  
Welch, David  
Winchell, George

Bicknell, Elbert  
Carson, Sharon  
Dowd, John  
Flanders, John Sr  
Gillick, Thomas  
Headd, James  
Itse, Daniel  
Katsakiores, Phyllis  
Letourneau, Robert  
McMahon, Charles  
Quandt, Matthew  
Smith, Donald  
Varrell, Thomas  
Weldy, Norman Jr  
Zolla, William

Bridle, Russell  
Cooney, Richard  
Doyle, Christopher  
Francoeur, Sheila  
Gleason, John  
Holland, James Jr  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
O'Neil, Michael  
Rausch, James  
Smith, Paul  
Waterhouse, Kevin  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Hollinger, Jeffrey  
Twombly, James

Bemis, Alan  
Dunlap, Patricia  
Musler, George  
Woods, Phyllis

Berube, Roger  
Easson, Timothy  
Newton, Clifford

Callaghan, Frank  
Hofemann, Roland  
Scott, David

**SULLIVAN**

Donovan, Thomas

Flint, Gordon Sr

Leone, Richard

Rodeschin, Beverly

**NAYS 137****BELKNAP**

Pilliod, James

**CARROLL**

Dickinson, Howard

Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter  
Meader, David  
Pratt, John  
Webber, Amy

Dunn, James  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Eaton, Daniel  
Parkhurst, Henry  
Robertson, Timothy

Espieffs, Peter  
Pratt, Irene  
Tilton, Anna

**COOS**

Mears, Edgar

Poulin, Richard

Theberge, Robert

**GRAFTON**

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

Cooney, Mary  
Naro, Debra  
Solomon, Peter

**HILLSBOROUGH**

Baroody, Benjamin  
Cote, David  
Drisko, Richard

Buckley, Raymond  
Cote, Peter  
Elliott, Larry

Cail, Kenneth  
Craig, James  
Ford, Nancy

Clemons, Jane  
Dionne, Kimberley  
Gorman, Mary

Irwin, Anne-Marie  
LaFlamme, Paul  
Malloy, Chris  
O'Brien, Lori  
Schulze, Joan  
Sullivan, Peter

Johnson, Lionel  
Lasky, Bette  
Messier, Irene  
Palangas, Eric  
Shaw, Barbara  
Sweeney, Cynthia

Katsiantonis, Thomas  
Leach, Edward  
Michon, Stephen  
Pappas, Christopher  
Spiess, Paul  
Vaillancourt, Steve

Kopka, Angeline  
Lefebvre, Roland  
Mosher, William  
Ross, Lawrence  
Sullivan, Francis

### MERRIMACK

Blanchard, Elizabeth  
Daniels, Eric  
French, Barbara  
Kenison, Leon  
Owen, Derek  
Rodd, Beth

Bouchard, Candace  
Davis, Frank  
Gile, Mary  
Lockwood, Priscilla  
Perkins, Randy  
Rush, Deanna

Brueggemann, Donald  
DeJoie, John  
Hamm, Christine  
MacKay, James  
Potter, Frances  
Seldin, Gloria

Clarke, Claire  
Fraser, Leo Jr  
Jacobson, Alf  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

### ROCKINGHAM

Abbott, Dennis  
Corbin, Corey  
McEachern, Paul  
Pitts, Jacqueline  
Splaine, James

Bishop, Franklin  
Gould, Kenneth  
Norelli, Terie  
Robertson, Carl  
Vallone, Matthew

Blanchard, MaryAnn  
Hutchinson, Karen  
Noyes, Richard  
Scamman, Stella

Coes, Betsy  
Kelley, Jane  
Pantelakos, Laura  
Shultis, Elizabeth

### STRAFFORD

Bickford, David  
Grassie, Anne  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair  
Wall, Janet

Brown, Julie  
Harrington, Michael  
Knowles, William  
Rous, Emma  
Spang, Judith

Campbell, W Packy  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Katherine

Creteau, Irene  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Franklin, Peter

Burling, Peter  
Jones, Constance

Cloutier, John  
Phinizy, James

Ferland, Brenda

and the majority committee report was adopted.  
Ordered to third reading.

### PRINT DEBATE ON SB 427

Rep. Burling moved that the entire debate on *SB 427*, relative to the definition of marriage, be printed in the Permanent Journal.

Rep. Splaine requested a roll call; sufficiently seconded.

The question being adoption of the motion to print debate.

### YEAS 197 NAYS 154

#### YEAS 197

#### BELKNAP

Allen, Janet

Nedeau, Stephen

Pilliod, James

Rice, Thomas

#### CARROLL

Babson, David Jr  
Mock, Henry

Brown, Carolyn  
Olimpio, J Lisbeth

Dickinson, Howard

Kenney, Bettie

#### CHESHIRE

Allen, Peter  
Fish, Douglas  
Parkhurst, Henry  
Robertson, Timothy

Dunn, James  
Manning, Joseph  
Pratt, Irene  
Tilton, Anna

Eaton, Daniel  
Meader, David  
Pratt, John  
Webber, Amy

Espiefs, Peter  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

**COOS**

Brady, Mark  
Theberge, Robert

Mears, Edgar

Poulin, Richard

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

**HILLSBOROUGH**

Balboni, Michael  
Brassard, Paul  
Clemmons, Jane  
Crane, Elenore Casey  
Fletcher, Richard  
Gonzalez, Carlos  
Haytayan, Harry Jr  
Irwin, Anne-Marie  
Kopka, Angeline  
Lefebvre, Roland  
Michon, Stephen  
Pappas, Christopher  
Schulze, Joan  
Sullivan, Peter  
Wheeler, James

Balcom, John  
Buckley, Raymond  
Cote, David  
Desmarais, Vivian  
Ford, Nancy  
Gorman, Mary  
Holden, Randolph  
Jean, Claudette  
L'Heureux, Robert  
Malloy, Chris  
Mosher, William  
Pepino, Leo  
Shaw, Barbara  
Sweeney, Cynthia

Baroody, Benjamin  
Cail, Kenneth  
Cote, Peter  
Dionne, Kimberley  
Gargas, Carolyn  
Graham, John  
Hopper, Gary  
Johnson, Lionel  
Lasky, Bette  
McDonough-Wallace, Alice  
O'Brien, Lori  
Pilotte, Maurice  
Spiess, Paul  
Tate, Joan

Bergeron, Jean-Guy  
Carter, Jeffrey  
Craig, James  
Elliott, Larry  
Gibson, John  
Haley, Robert  
Infantine, William  
Katsiantonis, Thomas  
Leach, Edward  
Messier, Irene  
Palangas, Eric  
Reeves, Sandra  
Sullivan, Francis  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
Hamm, Christine  
MacKay, James  
Perkins, Randy  
Rodd, Beth

Blanchard, Elizabeth  
Currier, David  
Fraser, Leo Jr  
Jacobson, Alf  
Nutter, Edward  
Potter, Frances  
Rush, Deanna

Bouchard, Candace  
Daniels, Eric  
French, Barbara  
Kennedy, Richard  
Osborne, Jessie  
Reardon, Tara  
Seldin, Gloria

Brueggemann, Donald  
Davis, Frank  
Gile, Mary  
Lockwood, Priscilla  
Owen, Derek  
Reed, Dennis  
Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis  
Coes, Betsy  
Dumaine, Dudley  
Gould, Kenneth  
Johnson, Robert  
Norelli, Terie  
Pitts, Jacqueline  
Scamman, Stella  
Vallone, Matthew

Allen, Mary  
Cooney, Richard  
Flanders, John Sr  
Griffin, Mary  
Kelley, Jane  
Noyes, Richard  
Putnam, Ed II  
Shultis, Elizabeth  
Waterhouse, Kevin

Blanchard, MaryAnn  
Corbin, Corey  
Gillick, Thomas  
Hutchinson, Karen  
Langone, John  
O'Neil, Michael  
Quandt, Matthew  
Smith, Paul  
Welch, David

Cady, Harriet  
DiFruscia, Anthony  
Gleason, John  
Itse, Daniel  
McEachern, Paul  
Pantelakos, Laura  
Robertson, Carl  
Splaine, James

**STRAFFORD**

Berube, Roger  
Creteau, Irene  
Kaen, Naida  
Pelletier, Arthur  
Smith, Marjorie  
Taylor, Kathleen

Bickford, David  
Grassie, Anne  
Keans, Sandra  
Rollo, Deanna  
Snyder, Clair  
Wall, Janet

Brown, Julie  
Hofemann, Roland  
Knowles, William  
Rous, Emma  
Spang, Judith  
Woods, Phyllis

Callaghan, Frank  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Katherine

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizey, James

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

**NAYS 154****BELKNAP**

Ahern, Omer Jr  
Fitzgerald, James  
Lawton, David  
Whalley, Michael

Bartlett, Gordon  
Flanders, Donald  
Russell, David

Clark, Charles  
Holbrook, Robert  
Thomas, John

Dewhirst, Glenn  
Laffam, Robert  
Wendelboe, Fran

**CARROLL**

Derby, Mark  
Patten, Betsey

Hatch, Paul  
Philbrick, Donald

McConkey, Mark  
Stevens, Stanley

Morrow, Harry

**CHESHIRE**

Dexter, Judson  
Royce, H Charles

Hunt, John  
Smith, Edwin

Laurent, John

Liebl, George

**COOS**

Guay, Lawrence  
Tholl, John Jr

King, Frederick  
Woodward, David

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Alger, John  
Eaton, Stephanie  
Maybeck, Margie

Barker, Robert  
Gilman, G Michael  
Sorg, Gregory

Dorsett, Andrew  
Giuda, Robert  
Williams, Burton

Dudley, Terri  
Ingretson, Paul

**HILLSBOROUGH**

Adams, Jarvis  
Artz, Lawrence  
Bruno, Pierre  
Chabot, Robert  
Drisko, Richard  
Hagan, Barbara  
Harrington, Paul  
Jasper, Shawn  
McElroy, Henry Jr  
Mooney, Maureen  
Rowe, Robert  
Tahir, Saghir

Allan, Nelson  
Barry, J Gail  
Buhlman, David  
Christensen, D L Chris  
Emerton, Larry  
Hall, Charles  
Hawkins, Ken  
Kurk, Neal  
McHugh, Claire  
Moran, Edward  
Scanlon, Michael  
Wheeler, Robert

Allen, Timothy  
Batula, Peter  
Carter, Mark  
Christiansen, Lars  
Fields, Dennis  
Hallyburton, Margaret  
Hinkle, Peyton  
LaFlamme, Paul  
McRae, Karen  
Price, Pamela  
Slocum, Lee

Arnold, Thomas Jr  
Brundige, Robert  
Cernota, Albert  
Coughlin, Pamela  
Goyette, Peter Jr  
Hansen, Ryan  
Hunter, Bruce  
Luebker, Bernard  
Mercer, Robert  
Ross, Lawrence  
Souza, Kathleen

**MERRIMACK**

Dunne, Christopher  
Kenison, Leon  
McCormick, Tom

Field, William  
Langer, Ray  
Oliver, James

Foley, Albert  
Leber, William  
Soltani, Tony

Hess, David  
Marple, Richard

**ROCKINGHAM**

Belanger, Ronald  
Camm, Kevin  
Doyle, Christopher  
Gilbert, Karl  
Hughes, Daniel  
Katsakiores, Phyllis  
Major, Norman  
Priestley, Anne  
Smith, Donald  
Weare, E Albert  
Zolla, William

Bicknell, Elbert  
Carson, Sharon  
Fesh, Bob  
Hamel, Albert  
Ingram, Russell  
Kobel, Rudolph  
Manning, John  
Rausch, James  
Stone, Joseph  
Weldy, Norman Jr

Bishop, Franklin  
Dodge, Robert  
Francoeur, Sheila  
Headd, James  
Johnson, Rogers  
Langley, Jane  
McKinney, Betsy  
Roessner, Kurt  
Tufts, J Arthur  
Wiley, Robert

Bridle, Russell  
Dowd, John  
Gilbert, Jeffrey  
Holland, James Jr  
Katsakiores, George  
Letourneau, Robert  
McMahon, Charles  
Ruffner, Walter  
Varrell, Thomas  
Winchell, George

**STRAFFORD**

Albert, Russell  
Dunlap, Patricia  
Musler, George

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Campbell, W Packy  
Harrington, Michael  
Scott, David

Cataldo, Sam  
Hollinger, Jeffrey  
Twombly, James



## SULLIVAN

Rodeschin, Beverly

and the motion to print the debate was adopted.

## DEBATE ON SENATE BILL 427

## Debate on Majority Committee Amendment (1323h)

Rep. John Pratt: Thank You, Mr. Speaker. My colleagues, we all know, we all ought to know what this bill is about. Anyone who came in through the front doors this morning and saw all the signs outside, people of New Hampshire know what this bill is all about. The overflow crowds that filled this hall on the day of the hearing before the House Judiciary Committee also knew, and know what this bill is all about.

This is a bill about the rights of our gay and lesbian citizens and this is a bill which goes to the heart of one of the most significant institutions in our social life, the institution of marriage. There were those before this committee, and there are clearly those in our society, who believe that any change in the definition of marriage would result in a significant shaking of the foundations of society itself. They believe that deeply and passionately and they expressed it deeply and passionately when they were before us. But there are also those who believe that this bill strikes directly at gays and lesbians and all who support them within this State and that this is a bill that is discriminatory.

Mr. Speaker, my colleagues, I have to tell you that in my judgement this bill is both unnecessary and hurtful. Unnecessary because if this bill is defeated today, the institution of marriage in New Hampshire will go on tomorrow. It will be as secure or as insecure tomorrow as it is today. I feel that strongly. Secondly, unnecessary because there will be no stampede of flat-landers who happen to be gay or lesbian into this state of New Hampshire if this bill is defeated. Indeed, the only invitation to flat-landers that I know about at the moment is one being issued by the Governor and I gather that is so that he can run on the Libertarian party in '06 as well as his own. New Hampshire as we know it will go on tomorrow as it goes on today if this bill goes down. Hurtful, hurtful, because this bill does discriminate against gays and lesbians. It says, in essence, we will continue to treat you as second class citizens.

That may not have been the intention but it is the effect, and I urge you all to at least understand that before you cast your ballot. Some movie once said that we are all within six degrees of separation from anybody else. It is my strong suspicion, although I have no proof, that when it comes to gays and lesbians in New Hampshire or in this nation, that degree of separation is no longer six degrees or even four degrees, but two degrees. I suspect that every member of this House has a relative, a son, a daughter, a grandson, a granddaughter, an uncle, an aunt, a cousin who is gay or lesbian. And who has felt through the years the sting of discrimination for being gay or lesbian. There are some I know that suggest that homosexuality is a matter of choice. They are of course entitled to that belief. But let me ask you my colleagues, is there any straight person in this House given the option that would choose to be gay? Is there any white person in this House given the option would choose to be black? We are who we are. And we are all entitled to dignity and to the full rights and privileges of citizenship. I confess to you my own personal belief that the day is coming when gay and lesbians will have full civil rights in this state and across the nation.

But that has not been the case for them just as it was not the case for women and for blacks. I didn't go up this morning, I meant to, to the fourth floor to take a look at the picture up there of the New Hampshire legislature circa 1930. I will do so afterwards and apologize if I'm wrong, but my strong suspicion is if any member of this House went up and looked at that picture today, they would find 400 men. 400 white men. Women went through a long and painful struggle to have their dignity fully recognized and their rights fully recognized. Blacks went through a long and difficult struggle to have their dignity fully recognized and their rights fully recognized. And we, like it or not, are on the cusp of that day when gays and lesbians will demand and will be accorded the dignity and the rights to which they are entitled.

My colleagues, this bill is unnecessary and hurtful. Do not pass it.

Rep. Soltani: Thank you, Mr. Speaker. Mr. Speaker, this is a bill as entitled in the House Journal relative to the definition of marriages. But before I go any further, I need to tell you that I know that as a matter of fact that there is no hate, hurt or malice in the hearts of the majority of the Judiciary Committee. I can tell you, the best I know, that there is no hate, hurt or malice in those

members of the Judiciary Committee who disagreed with us. We had a legitimate disagreement on philosophical position. This bill is not hurtful, hateful or malicious, nor is it discriminatory, but it is necessary.

It is necessary for several reasons. Mr. Speaker, currently New Hampshire law abrogates its responsibility to set public policy on what is a legal marriage to any state or foreign nation. Any state or foreign nation can define what marriage is. And under New Hampshire law we must accept that. We discovered that through an examination of our own laws. This bill has been framed by its opponents as a gay marriage bill. That is not necessarily accurate, although it is politically astute to try to destroy it.

This bill is about ensuring that the New Hampshire legislature will maintain the ability to establish public policy of this state on what is a lawful marriage. This bill is about ensuring that New Hampshire residents will be treated equally and will be entitled to the same rights and responsibilities of marriage, the same as those marriages celebrated outside of the state by residents of foreign states and nations.

Mr. Speaker, both under common law which dates back about 400, 500 years or longer, some say 750 years, and under the convention of international law, a marriage would be recognized in a host state if it was legally celebrated where it was celebrated, and, and this is very important, and it did not offend the public policy of the host state. That ensured that the migrant married couples received no less and no more rights and responsibilities than the host state's citizens. New Hampshire has abrogated that second prong of the test.

Currently as the law stands with its loophole, anyone can marry anywhere, anybody or anything and move here and claim to be married and entitled to the rights of marriage. Whereas our own citizens will not be entitled to do the same thing. And our own citizens will not be able to go across the state line or a national line and celebrate that foreign marriage legal under foreign law and come back here.

That, Mr. Speaker, is discriminatory. That gives lesser rights to our own people. And Mr. Speaker, we must correct that. We must retain the right to establish public policy of the state in one of the most fundamental institutions of our society, that of marriage. I will readily admit that this loophole in New Hampshire law came to light as a result of judicial activism engaged in by some judges in a state neighboring to our south. Some states do that. That state's public policy was radically altered by its Supreme Judicial Court, not by its legislature.

There are two ways, Mr. Speaker, that these foreign marriages that don't meet our definition of the ordinary marriage can be recognized in New Hampshire. One is, if we abrogate the right to establish public policy as we have done under the current law; and two is, some argue, under the full faith and credit provision of the United States Constitution. I want to get rid of that full faith and credit provision of the United States Constitution. That has nothing to do with this bill. If someday a federal court holds that a foreign marriage has the same weight as a New Hampshire marriage, as long as it was celebrated in a lawful manner in a foreign state, then there is nothing that our laws can do because federal law is supreme. However, case law indicates otherwise. There's been at least one US Supreme Court that has rejected the notion of accepting a marriage where the marriage offends the public policy of the host state. That is the precedent handed up by the United States Supreme Court. So we know that more likely than not that the full faith and credit thing is just a red herring, is not going to work.

But the second prong, the second way that these marriages could sneak in, is if we allow them to become legal without us having a say so. And that's what we're trying to prevent. Again, Mr. Speaker, this bill is not only about gay marriage, this bill does not discriminate. This bill is about ensuring the New Hampshire legislature's ability to establish public policy about a fundamental institution and it is about abolishing discrimination while at the same time we want to study the issue further and if we need to change the laws further, we will. Thank you, Mr. Speaker.

Rep. Dickinson: Would you believe that I see no need for this bill and I think we already have the laws on the books and I hope that clarifies my position?

Rep. Soltani: I have no idea what you just said.

Rep. Splaine: Thank you, Mr. Speaker, thank you for the opportunity to speak to the members of the General Court today and that's what I want to do for a little while, talk with you about this issue. Guess what? About myself. Guess what? About the way that we treat one another. Because there is, in my judgement, nothing more important in our lives, nothing more important than the way we treat one another. If we were to find a way to accept God's word that

we should love thy neighbor, we would be able to end a lot of problems that we have in this nation and this world. But instead we seem to find ways to define our differences rather than our commonality. We seem to find ways to find the ways that we disagree with one another rather than the ways we agree.

This is for me an opportunity, too, to perhaps speak for the last time at this well or the other one after dozens, many dozens of times speaking in the House during the 18 years I've been a member here. And the literally hundreds of times I've spoken as a member of the Senate on the other side of the wall. Because this will be my last legislative session for a while though I suspect I'm going to be coming back. I find that I've had a special benefit by not taking my work in the legislature quite as seriously as maybe some of us do from time to time. I've left the legislature a total of four times since 1969. I've had the opportunity that way to see government from the outside as well as from the inside. I've seen the way government treats people as well as the concerns that people had that they talked with us about when we don't happen to be legislators. And I'm really looking forward to December when I can say again, "I'm not a member of the New Hampshire state legislature," although I've enjoyed my work and involvement with you on many of these days, because I think it will give me and renew the perspective that I sometimes lose and that perhaps that too many of us do lose when we sit here sitting in judgement of laws which are going to affect people.

You're going to hear today a lot of different comments from a lot of different members of this House. You're going to hear some personal stories, I'm going to tell you one. You're going to hear some technical concerns and arguments on this piece of legislation. I know some are going to talk about that. And you're also going to hear from some other members who are going to talk with you about the discrimination that they face and they experience even though they may not be gay or openly gay.

But I want to tell you something about a personal story that I had just last week and that I had about a month ago in this chamber. The previous speaker, the Representative from Epsom, who I find I'm in agreement with many times, although we may disagree more than we do agree, I find that I disagree with his observation that during this entire debate there hasn't been hate, hurt and malice. I sat in the committee hearing on this bill in the House. I sat in these chambers during most of the committee hearing in the Senate and I don't know about everyone else who attended and observed it or participated in different ways, but certainly I felt as a person who is openly gay and has been for over 20 years, I felt the hurt. I felt the hatred. I felt the malice. When I drove home each day I was wondering, "Why do I feel that way?" Because I know that none of those legislators, and most of the members of the public speaking, did not really want to hurt other people, did not really have malice. Then I tried to put my feet in the shoes of those people who may be black and I think that when you do that, you can appreciate that in a country where most people happen to be not black, there are many ways that we as a society hurt them even though we don't mean to. There are many ways in which they can feel a certain amount of hate and certainly discrimination. A number of members of the House, still a minority though, hopefully it will change some day, happen to be members who are not male. Those members who are women and women throughout this nation certainly feel the discrimination each and every day in so many ways, whether it's by the fact that they are paid 75 cents on the dollar compared to a man for doing the same job and even more work or the way that they are treated by society in general. We do treat people differently even though sometimes we don't intend to. I'm just going to add two more comments because I think you're going to hear from a number of other legislators their concerns about this bill. But one of those comments is, my first term, I was the youngest member of this House back in 1969 and since there are 400 of us one of us has to be the oldest, one has to be the youngest. There were about ten of us under the age of 30 in those days. I was the youngest and there was a member of this House who had been a previous Speaker in the 1950's, his name was Norman McMeekin and he sat right there. He was chair of the Statutory Revision Committee my first term. It was the committee I was assigned to. He was about 75, and for one reason or another he decided that he'd take this young legislator under his wings and kind of show him some of the ways of the legislature operates. And one day he was describing to me as we had this flood of bills dealing with election law and constitutional changes, that's where those bills went to in those days, Statutory Revision, and he said, "Jim, beware of 'IF' legislation, beware of IF. All these people want to come in with bills to prevent something from happening that is going to happen anyway but it's because people are fearful of the unknown." I consider this legislation, and I think Rep.

McMeekin who's passed us now would agree with me, as a perfect example of "IF" legislation. The day after our vote, if it's tomorrow, no one who is gay in New Hampshire or anywhere else is going to be married in New Hampshire or will come here and be able to say they are married. It isn't going to happen on April 30<sup>th</sup>. Maybe someday we will get to a point when we will realize why we do discriminate against people. What is wrong with relationships, what is wrong with encouraging people to make an agreement between themselves that they will be loyal to one another as a married couple? And we will get there, in fact, I am sure that we will, but it isn't going happen tomorrow.

If we defeat this bill, it isn't going to happen. If we pass this bill, it isn't going to happen. Nothing will have changed. But, there is a teenager at home, and I think that we have to consider that teenager, that teenager at home who right now is having a very stressful day. The second leading cause of suicide among people who are 12 to 19, the second biggest reason other than drug abuse, is questioning their sexual identity. They see from their peers, from TV and from the headlines of newspapers that in this society they are not supposed to be gay. They know they don't fit in. Today throughout this country dozens of young people will decide to end their lives because they are wondering about their sexual identity. And tomorrow's headlines will affect some of those, if the headline says, "Leaders in a state house in Concord, in some state called New Hampshire decided to say once again that we as a society, we as a government want to continue to institutionalize discrimination." Why do we do that to one another? Why, Mr. Speaker, do we treat one another that badly?

The last comment that I want to make is a little story about myself and you are going to hear some others. We don't tell enough stories on this floor, maybe we should. In fact, we used to, we used to find a way in this legislative process, when the Highway Hotel was across the street, to socialize a lot more than we do today. There are some good reasons why we don't do that because the lobbyists used to maybe buy too many of us off in different ways, but we don't do that so often nowadays, but we still have an opportunity from time to time to learn about one another. I think you're going to learn about some of those members who you have worked with during this session and previous sessions who are openly gay and I'm just one of them. I think there are probably, I'm not sure, but probably some members of this House who are not openly gay, but who you might want to talk with about the kinds of discrimination they face. I was born in Portsmouth and didn't really know, I would say I didn't really know I was gay until maybe I was 16 or 17 in high school. Strange as it may seem, my mother knew. In fact, a good legislator, who has been around even longer than I have, told me that the best way to end discrimination against people who are gay is just to have them tell their moms that they are gay. Because if everyone, even if there is only 10% of us, said, "Mom, I'm gay," no matter what our ages are the moms of the world would say they could not discriminate against people who are gay. It would be nice to tell dads too, but at least we should be telling moms that we are gay. But my mother knew I was gay probably when I was 12 or 13 years old, she didn't seem to treat me differently. But you could notice, as I look back, that she treated me differently. My father didn't know until I was about 25 and my father, when I ran for the state Senate in 1978, he decided to run for the House. He was a member of this House until the day he died at the age of 79 1/2 in 1992. He didn't know that I was gay until I was about 25, I think my mother, maybe my sister because I didn't really come out until my second term in the Senate in 1979, 1980. But they did know and I was amazed and always appreciative of this, that they not only didn't treat me differently, but they didn't treat me as if I was doing anything wrong. I think they knew even back in the 1960's and '70's that people who are gay are born gay. Just like some people who are not gay, are born not gay. And that's OK too, because some of my best friends are people who are not gay. As I continued to grow up through college, I was not "out" in that I didn't hold a news conference and say, "Here I am," but it was a different world in college. We were most concerned about a war in which we were embroiled across the seas. It didn't seem as if people were so concerned about whether or not somebody was gay or not gay. It seemed that young people at least were more concerned about whether we were going to be drafted, something to be said for the draft. Whether or not we were going to be drafted and sent to this country overseas to fight a war that many of us didn't understand and maybe most of us didn't want to go do and if you had money, you didn't go to. Fortunately, those were the 1960's and 1970's and our nation has grown up since and we don't do that any more. So we were more concerned about those issues than whether someone might be gay or not. As I continued to grow up and see the legislative process and get involved in politics and hear some of the whispers out back, remember I was

a member of this House, first year 1969, I hung around through the 1970's, ran for the Senate in 1978, so I heard a lot of whispers in the House about people who thought it was downright wrong for any effort to nationally discuss the issue of being gay. In the 1970's was that time when we began coming to some kind of awakening. Through the 1980's, after I became a member of the Senate, after the 1980's and I had said in 1980 when I ran for re-election and I never held a news conference, never said anything on the floor, didn't need to I felt but came out more and more, and you know "out" is a variation of degrees. I mean you can hold a news conference and say, "Here I am," you can start telling your moms and dads, you can start telling your friends. Through the 1980's I saw more welcoming and acceptance among people who I knew about issues relating to gays and myself. But interestingly enough, even though I know some people in the 1980's and early 1990's who are openly gay now and that they were members of the legislature, I didn't know they were gay. I, for a while, actually as recently as 1991 among the four members sitting in front of me now, well the people sitting in the 400 seats in front of me, I didn't know for sure that anybody else was gay. I had a lot of gay friends but I didn't know for sure that anybody was gay. And as I learned more and more where after it became something we could talk about in the early 1990's in large part because Bill Clinton ran for president and said no one should be left behind. I began saying, "Hey, I'm not alone." And I can't describe how good that made me feel. How I felt that I was part of this society in that perhaps I didn't know before. Please, don't pass this bill and once again slap me and other people who happen to be gay in the face by saying once more that we, the powers who be, want to show you, the powers who aren't, that we make the rules and we can cause discrimination. It is not the moral nor the right thing to do, either for me or for that teenager back home who will be reading tomorrow's headlines. Mr. Speaker, thank you very much.

Rep. Lasky: Thank you, Mr. Speaker. Honorable members of the House, good morning. I rise today in opposition to the majority report of Ought to Pass for SB 427. During the public hearing of this bill, I and the rest of the members of the Judiciary Committee listened to hours of compelling testimony by people on both sides of this issue. One recurring theme that I heard was, "I personally have no objections to gay and lesbian people, some of my neighbors, my relatives or my best friends are gay." But the outcome is that we have before us today that we have a bill that will not allow gay and lesbian couples who may be united in some form of legal union in another state to be recognized as such in New Hampshire. No matter what face you put on it this is discrimination. Ordinarily, do we care if other groups move to our state and our laws may be out of date to accommodate them? Have we reacted in fear before when our neighboring states or their courts have made laws that are different from our own? Of course not. Are we now acting any differently than the country club that wouldn't allow Tiger Woods to play golf or the hotel in Florida that made it perfectly clear I would not be happy being married there because of my religion? The reason Tiger Woods or Elliot Lasky and Betty Rappaport were denied was not because the clubs were unable to accommodate us, but because African-Americans and Jews were different.

Ironically, last Wednesday, the day this bill was passed out of committee, was the Day of Silence, a nationally recognized day in which students take a vow of silence to protest discrimination and harassment of lesbian, gay, bisexual and transgender youth in schools. Schools around our state participated. We, however, were not silent. We told the people of New Hampshire loud and clear that we would continue to do what millions have done before us to African-Americans, to Jews, to women, to the Irish, to Muslims and to countless other groups we could not understand or relate to. We would say, "You are not welcome here."

Please vote "No" to the committee report so we may move Inexpedient to Legislate and deal with this subject fairly, calmly and equitably. I thank you.

Rep. Buckley: Thank you, Mr. Speaker, I humbly request a quorum call.

Speaker Chandler: Rep. Buckley has requested a quorum call. All members will take their seats. The Sergeant-at-Arms will please escort members in from the anteroom.

Rep. Buckley: Mr. Speaker and members of this House, SB 427 and the committee amendment should be defeated. Mr. Speaker, I sat here and listened to the day-long Senate hearing on this bill, in this great hall. I sat and listened to the Senate debate in the Senate gallery on this bill. I sat and listened to the day-long House hearing on this bill in this great hall and I sat and listened to the Judiciary Committee's work session on this bill in their committee room. Mr. Speaker, after all those endless hours, I have learned something very important. I have learned that from day one this bill has been about one thing and one thing only. The sponsors and fervent supporters of SB 427 believe that they can somehow eradicate homosexuality.

They mistakenly believe that by making the lives of New Hampshire's gays and lesbians as difficult as possible, as painful as possible and as tough as possible that you will somehow make us heterosexual.

Mr. Speaker, let there be no doubt in your mind or any mind of any member of this House, or across the state, you can not make me straight. So get over it. To this silly business of trying to hide the ugly face of this miserable bill by now shrouding it with the mask of judicial tyranny or the outrageous claim that the supporters of this bill actually care about New Hampshire's gays and lesbians. It would be such a discrimination if we had one house where there was a lesbian couple from New Hampshire and very next door a lesbian couple from Massachusetts moved in and they have all these rights. How dare you? How dare you offend us with that talk? I dare the supporters of this bill to tell the truth and admit what this bill is all about. Have the courage to come out of your own closet with your real agenda. Speaker after speaker, call after call, letter after letter was about one thing – that homosexuality is evil because God told them so. And they will say just about anything to try to get their way. Mr. Speaker, for hour after hour during those hearings I was assaulted by the words of the supporters of this bill. How many times did I hear the member from Dover, and the member from Milford go on and on about the correlation between gay marriage and the divorce rate. Over and over they repeated that the Scandinavian countries where gay marriage was legal had “a divorce rate of 96%.” But you know, all you have to do is look up the facts, which I did. America's divorce rate is twice as high as Sweden's and nearly 50 times higher than a number of other countries. It is America's heterosexual divorce rate that is exploding. And just where did I find those facts? On a Fundamentalist Christian website. It actually does a wonderful job. It lists every country and every divorce rate. If the supporters of this bill can't even get the most simplistic facts right, why are you going to vote to empower them with your vote? How many times did I hear the woeful cry marriage is for the procreation of children and that we must protect the children. Huh?

A convicted murderer in the state prison can get married in New Hampshire. A convicted child molester can get married in New Hampshire. A convicted rapist can get married in New Hampshire. A convicted adulterer, (no offense, you know I've been here for nearly 30 years, I know a thing or two about members of this House), anyways a convicted adulterer can marry in New Hampshire. A convicted child killer can get married in New Hampshire. The scum of the earth can get married in New Hampshire just as long as they marry someone of the opposite sex. A person can marry and divorce as many times as they want, unlimited, every year, get married on New Year's Day and get divorced by spring, and do it over and over and over again. For procreation. Well, how come you all allow people past childbearing to get married? Try as you might I don't think it's going to work.

So let's get real. Those tired old arguments hold about as much water as that fake divorce statistic. Another thing, Mr. Speaker, during those hours of testimony, many of the bill's supporters started their testimony with, “I'm here because I'm just a family man.” Somehow implying that those of us who are gay are not members of a family. I think that would be a surprise to my eight younger siblings or my 15 nieces and nephews, or my parents, or my scores of aunts and uncles and cousins who live across this state in just about every one of your districts.

There is nothing more precious in the world to me than my family. If you want to test me on that you just try messing with one of them. You know, just last week I was the only House Democrat to oppose that death penalty bill. I did that to the memory of my cousin, Michelle, who was raped and murdered in the 8<sup>th</sup> month of her pregnancy in 1987. I take a lot of heat for that support, my support of the death penalty, but my heart is cold to the argument against it. Because that man who raped and murdered my cousin deserved to die. So don't lecture me about your family and don't you dare suggest that I don't love mine.

The fact is, more likely than not, I'm standing here today fighting for a member of yours. Neither I or any gay or lesbian person here in New Hampshire is after your family or your marriage. Why the heck are you after mine?

Why did I choose to take this stand today? Well, I guess you can blame that on my family genes. I come from a family of people who have been willing to fight for what's right and take a stand for their principles and their family. My mother's family came over on that little boat in 1620 called the *Mayflower*. In fact, I'm a descendant of five of those *Mayflower* families. My father's family escaped the great famine of Ireland. They had to get dropped off at the first stop in Nova Scotia,

they walked the rest of the way to New Hampshire. Although my blood is from those willing to risk their lives for freedom, the reality is they sought freedom by leaving their homes. Mr. Speaker, in this fight for gay and lesbian equality, I want you to understand and every member of this House, and every person in New Hampshire to understand, I'm not going anywhere because New Hampshire is my home. I will not run because too many in my family have given too much to make this state and this country great. You know, members of my family have fought in every war that America has ever fought. My dad's cousin is memorialized for his continued MIA status in the Korean conflict downstairs in the Hall of Flags. I remember when I was five years old and my dad showed me the map of Vietnam, and he showed me where his three brothers were serving this nation. Today, America finds itself in another war. War against foreign terrorists intent on destroying our way of life. But for gay and lesbian Americans that battle is not just in Afghanistan or Iraq. Mr. Speaker, when those terrorists attacked America on 9-11, they attacked all America. Over one hundred of America's 9-11 victims were gay or lesbian. From Father Michael Judge, who was the New York fire department chaplain, to Mark Bingham, the gay Republican who was a passenger on Flight 93 and who helped thwart the plane's hijackers who were intent on destroying the White House and they crashed in Pennsylvania to Ronald Gamboa and his partner Dan Brandhorst, and their three-year old son who earlier that morning drove through New Hampshire from Ogunquit, drove through New Hampshire on the way to Boston, they were on Flight 175, the plane that crashed into the second tower, to Sheila Hine who worked in the Pentagon and on 9-11 was murdered by those terrorists and was survived by her partner of 18 years, Peggy. The stories go on and on. To all those gay men and lesbians who were on those planes or in those buildings, what was America's response? It was to immediately dismiss more than a dozen gay military translators, each who were in the Arabic languages and experts who could have assisted America in this war. They were fired despite the dire shortage of such translators. Mr. Speaker, for America's gay and lesbian, we are not under attack on foreign soil. It is right here on American soil where our lives come under assault daily. From either hateful words or deeds, it's still the same. From your Matthew Shepherd who was crucified on that fence in Wyoming to Allan Schindler who was beaten so badly by his Navy shipmates that he was left unidentifiable, to the many New Hampshire couples who have been together for decades but whose relationship is not acknowledged by law. To the New Hampshire children in those families who do not have the legal protection for their own health and safety. Whether through words or laws or violence the attacks are the same. They are meant to hurt. They are meant to diminish.

Mr. Speaker, the passage of SB 427 will have the effect of taking a sledgehammer to every gay and lesbian here in New Hampshire. It will hurt and it will hurt bad. Mr. Speaker, through the years for being gay, I've been beaten, I've been spit upon, I've had my home and my property vandalized, I've been smeared on the local cable television and I've been smeared to my constituents, but none of that will compare to the pain I will feel if I sit here and witness the passage of this bill by my colleagues. I ask for no one's pity, all I ask is for each member of this House to think for a moment before they cast their vote on this bill. To argue that hordes of invading same-sex couples will be moving to our state on May 17<sup>th</sup> is a shameful baseless scare tactic. This bill will have a minimum legal effect on anyone but it will have a lasting memorable effect on us all. To pass a needless bill is simply an insult to us all.

Mr. Speaker, I want to take a moment to address those members of this House who are gay but for whatever reasons chose not to reveal their sexuality. My colleagues, my friends, you have nothing to fear from me or anyone in our community. We will not reveal your secret. But we do ask that you do have the courage to stand up for your brothers and sisters who refuse to hide and we implore you to stand up for yourself and have the decency to vote "no."

Mr. Speaker, I've often told how as a second-grader, upon learning the story of Abraham Lincoln, I was inspired to dedicate my life to politics and started volunteering in the very next election. It was also while I was in second grade that my doctor told my mother that it was more than likely that I was going to grow up to be gay. So here I am today giving this speech as a member of this House for nearly two decades. Standing before this portrait of Lincoln emboldened with my memory from four years ago of joining nearly a million other gay and lesbian Americans in Washington and standing on the very spot where Dr. King gave his famous speech. In the shadow of Lincoln's statue and embraced by Lincoln's words that "all men are created equal." I stand before you today with no shame or embarrassment of who I am. I'm proud to be an American. I'm proud

to be from New Hampshire. I'm proud to be a legislator. I'm proud to be a member of my family. And I'm proud to be strong enough to stand here today and accept the fact and admit the fact that I am gay.

I ask you, Mr. Speaker and my honorable colleagues, that you find it in your heart to vote "no" today and to make me proud to call you my friend. Thank you.

Rep. Potter: Thank you, Mr. Speaker. Good morning, colleagues. I spent three years as a full time theological student and have been asked to say a few words about what the Bible says about homosexuality. If that were the end of the question, it's easy. The Bible says nothing about homosexuality. The word doesn't appear at all. In fact, there is nothing in the Bible that applies to sexual acts between women and, for that matter, Jesus says nothing about homosexuality. But two or three thousand years ago, in Bible times, there was no awareness that a loving, long-term same-sex relationship could exist, one that would be described as homosexual today. People were shepherds, not scientists. Clearly, however, people did understand the existence of homosexual acts between men on a battlefield, in a pagan temple or in Greek culture. Such acts implied abuse for one partner and shame for the other. Taking the part of the woman was shameful. It was wrong and idolatrous. Three thousand years ago the author of Leviticus calls this act abomination.

By contrast in modern times, doctors determined that a homosexual orientation, that is a long-term committed relationship, was not a disorder, was often genetic and rarely subject to change. So, back to the Bible about same-sex acts.

In the film *The Passion*, which I didn't see, it was explained that Jesus spoke Aramaic and that we only know his words in translation. The King James Version published in 1611 was based on a Greek text full of mistakes, accumulated errors of 14 centuries of hand-copying. These days we have far more resources and scholars are far better equipped to recover the original meaning of a text. A tremendous body of Greek materials has been discovered since the 1870s leading to better understanding of God's self-revelation to humanity and dealings with humankind.

I will take just one example. The word "sodomite" probably means something to you. In fact, there is only one verse in the entire Bible where that word in the original means what you may think it means. In the book of Deuteronomy, the sin of Sodom was the worship of false gods. In Isaiah, it was the failure to seek justice and to rescue the poor. In Jeremiah, it was lying and adultery. Again in Isaiah, it meant grinding the face of the poor. In Ezekiel, it meant pride and prosperous ease.

And to Jesus it meant abandoning God and a failure to do justice to the poor and the stranger. The immorality in Sodom was not sexual behavior; the sin of Sodom was injustice. Some of you may disagree with me. If you do, that is exactly one reason for not legislating religious beliefs. Please vote "no" on SB 427. Thank you.

Rep. Franklin: Thank you, Mr. Speaker. Good morning colleagues. When I was a younger man, I read about Don Quixote and much of the argument that I've heard about this bill seems very quixotic. We're told that we should not let the Massachusetts Supreme Court tell us what to do. But the Massachusetts Supreme Court has just spoken to the citizens of Massachusetts and said that in Massachusetts there should be no discrimination concerning marriage. And I think the Massachusetts legislature wants to limit Massachusetts marriage to Massachusetts residents. But the proponents of this bill seem ever mindful that the sky might be falling down. That there will be an on-rush of Massachusetts same-sex couples who have the dignity of marriage and the respect of their state but who will now rush to uproot themselves and move to an inhospitable New Hampshire. And so the proponents of this bill want to protect us from ourselves by closing the loophole. And just what is the loophole? Back in the last century, in the 1960s, this legislature, yes, this very legislature, enacted a statute saying that the fearless citizenry of New Hampshire would recognize the lawful marriage of citizens of other jurisdictions, even if we did not allow New Hampshire citizens to so marry. After half a century living with this law, we've suddenly become frightened to death of this law. I suspect that the next half century of living with this loophole will be just as uneventful as the last half century. And so as a matter of conscience, I think that each one of us should look into our own soul and confront our own demons and then vote with malice toward none and with charity for all. With malice toward none and with charity for all. Thank you, Mr. Speaker.

Rep. Jacobson: Thank you, Mr. Speaker, and I apologize for not being on the ball. There are two things that I want to say. First thing I want to say is that I do not understand homosexuality. I never have. And the second thing I want to say is that I believe that people are what they are and we must live with that kind of an issue. And that we should not discriminate. I'm 100% heterosexual,



in fact, I told someone the other day that I'm 110% heterosexual. There's nobody in this House that's more heterosexual than I am. I believe, and I understand that there are those who have a different viewpoint on life, but we are all under, or we all should be under, the same law. I oppose this legislation because it does discriminate. It intends to discriminate. Secondly, and even more important, it's probably unconstitutional because other states have in fact legalized this kind of union. The constitution, Article 4, Section 10, our federal constitution says that we must accept the laws of other states that have been validly enacted. So, if two people who are of the same-sex did get married in another state, our constitution, our federal constitution says that those actions should be recognized, must be recognized. So, this is what the issue is. I don't have any more stories to tell, but I think you should consider just exactly what the federal law is on the issue. Thank you, very much.

Rep. Corbin: Thank you, Mr. Speaker. I would like to request a quorum call.

Speaker Chandler. Rep. Corbin has requested a quorum call, if any members are in the anteroom would you please return to the Hall.

Rep. Corbin: Thank you, Mr. Speaker. My friends and colleagues, today is a historic day. Today one of the largest democratically elected bodies on the face of this planet will put us on par with a few other historically significant bodies. Today we deliberate the passage of a bill that, should it become law, will join a few other laws that have made history. These laws are similar to the one we vote on today and were all passed by legislatures and deliberative bodies just like ours. Let me read to you a few of these laws and tell you about the bodies that enacted them.

From Arizona and the Arizona House and Senate comes the following: The marriage of a person of Caucasian blood with a Negro, Mongolian, Malay or Hindu shall be null and void.

From the Sunshine State of Florida the United States received this important piece of work: All marriages between a white person and a Negro, or between a white person and a person of Negro descent to the fourth generation inclusive are hereby forever prohibited.

And who could forget the harmless piece of legislation that was passed on September 15, 1935 and reads as follows: Marriages between Jews and nationals of German or kindred blood are forbidden. Marriages concluded in defiance of this law are void even if for the purpose of evading this law they are concluded abroad.

Now this last law sounds vaguely familiar. Let me read from the text of SB 427 because I think you will, as I did, note the striking similarity. SB 427 says that this state, "...shall not give effect to any public act, record, or judicial proceeding of any other state, territory, possession or tribe respecting a relationship between persons of the same-sex that is treated as a marriage or the legal equivalent of marriage under the laws of such other state." While the passage I just read was authored by a certain senator from Kingston just a few months ago, the previous law that sounds so similar save for two words was written by delegates of the Nationalist Social Party and passed by the Reichstag in Nazi Germany. And this ladies and gentlemen, this will be the history today. If you vote to pass this bill into law today you will be joining the public servants of history who so nonchalantly passed the Jim Crow laws that oppressed our African American citizens and the Nuremberg laws that eventually led to the final solution of the Jewish question in Germany.

Now some of you may find these comments distasteful, and you should. For never have more distasteful, ignorant and hateful laws been passed, but they were passed in chambers just like this one with the same motivating factors that are being used by the supporters of SB 427. As a gay man, I can assure you that no one finds these laws more distasteful than I do. And while these laws may be a part of our past, for me as a gay man they are a terrifying glimpse into my future. An affirmative vote on SB 427 today will be your way of telling me and every other gay man and woman in New Hampshire that we are not as valuable to this society as are our heterosexual neighbors. If we were just as valuable, you would not be passing laws that make us second-class citizens. An affirmative vote on SB 427 today, a vote that will strip rights and liberties away from a whole segment of our population, is a vote that says to me that my eight years service to this nation as commissioned officer of infantry in the United State Army meant nothing. I wonder if any of you who are supporting this bill can possibly imagine how I feel. I, who volunteered to and was willing to lay down my life in support of this nation and in support of freedom and justice for all of our citizens, I'm about to be told by you that I'm not entitled to those very same rights, liberties and freedoms that I was prepared to die to protect. You know, speaking of the military, President Bush made a speech a few months ago trying to bolster support for our military operations in

Iraq and Afghanistan. He said and I quote, "...that our work in Iraq and Afghanistan is important because as Americans we believe that everyone is entitled to the inalienable right of human dignity." As we justify our war in Iraq and Afghanistan by reiterating the importance of freedom, justice and human dignity, there's nearly 1,000 young men and women who have died to bring those concepts to the Iraqi people, we sit here today ready to strip that same freedom, just and inalienable right of human dignity from our very own. How very sad.

You know, what I find even more sad than the apparent willingness of the majority to strip my rights away from me is the motivation behind it. We've heard from one sponsor that it's God's law, that the Bible requires us to do this. I wasn't aware that church dictated public policy. I always thought that the United States constitution forbade the implementation of public policy based on religious teachings, which it does. If there is to be no more separation of church and state, then let's end the education funding bill for once and for all and treat churches just like businesses, and charge them property taxes and make them pay the business enterprise and business profits taxes. We've heard from another supporter of this bill that marriage is about having, raising and protecting children. If that is so, then why that honorable member isn't amending this bill to prohibit convicted child abusers from marrying is beyond me. How can marriage possibly protect children if the most reviled among us, abusers of innocent kids, are allowed to get married as often as they like, have more kids and further perpetuate their cycle of violence? Why? Why, honorable members, are we not protecting kids from these people?

My favorite motivating factor, however, came from a member of the Judiciary Committee who stated that gay and lesbian relationships were just about the sexual act anyway and have no basis in love. Well, I would like to tell that honorable lady that while she may think it's all about sex, my partner and I have been together for eight wonderful years, far longer than most heterosexual couples, and our relationship most assuredly is not about sex. Our relationship is about mutual respect and friendship. Our relationship is about a deep rooted sense of caring and a commitment to help one another through good times and bad. But most importantly, it is about love. You see, to us the vow – til death do us part – actually means something. It's not just a hollow phrase uttered on a wedding day by heterosexuals, 58% of whom will be divorced within four years. No, honorable lady, that vow actually means something to me and my partner. I know it does because a few years ago when I told him of the results of a blood test found that I was HIV positive, he hugged me and said everything would be fine. He told me that he loved me and that he would be there by my side through this, 'til death do us part. If it were all about the sex, honorable lady, which hasn't been part of our relationship since that fateful blood test, we would not still be together, but we are. We are still together and shame on you, honorable lady, shame on you for thinking such ignorant and hateful thoughts.

I don't have much else to say, I've pretty well bared my soul and my private life to you and I've done that so you will understand how important this issue is to me and the thousands and thousands of other gay and lesbian citizens in this state. Before I end, however, I want to make this statement: those of you that vote for passage of this bill today, I want one of you, just one of you, to look me in the eye when this is over and tell me that my life, that my 8 years of service in the armed forces, that my service as a member of this body means nothing. I want just one of you who will vote for this bill to have the courage to stand up for your belief, and hatred and bigotry and tell me that because of who and how I love, I should be a second-class citizen. Thank you, Mr. Speaker.

Rep. Vaillancourt: Thank you, Mr. Speaker. We have heard some eloquent words today. My colleague from Ward 8 in Manchester, probably the best words I've ever heard in my 8 years on this House floor. Some very personal experiences from other people. When I think about this topic, I like to think of a man who has already been mentioned, Martin Luther King, and the words, "I have a dream and the dream shall never die." And it will never die. We also heard today personal stories which are heart wrenching. I don't wish to tell any personal stories. In fact, I'm glad that I didn't write my speech earlier because everything has been said about these things except to talk about government, philosophy, social contracts and the meaning of human beings.

So instead of talking personally, I want to talk philosophically a little bit. I think one of the greatest philosophers in the history of the world was Thomas Jefferson, who even while he held slaves, penned those words, "all men are created equal." Did he mean it? He did the best he could for his time. For him, "all men" meant all men who have land can vote and be equal. Not all women, not all black people, not even all people that don't have any land. But he said all men are created equal

and he set a goal that someday we may reach. And you know what? We have made tremendous progress towards reaching that goal. We no longer have black men considered unequal. We no longer have Jewish men considered unequal. We no longer have women considered unequal. What we have, my friends, and I use that word in a special flavor today because I do consider almost everybody here friends, and I have noticed the people who are wearing the sign saying "Yes" on this bill, I'm glad to say there are not that many of them and only one or two of them are people I really respect, because no friend of mine is a bigot, no friend of mine has hatred in his heart. After thinking a lot about this bill, I've thought that really the only reason for this is bigotry or hatred. It's not going to solve anything. Because even if you pass this, the issue is not going to go away. This issue is going to be decided where it should be. Oh, I know the chairman of the Judiciary Committee doesn't like the idea that it should be decided by the courts, but that's what's going to happen. Your saying gay people have no rights doesn't mean that gay people have no rights. They have as many rights as black people, as many rights as women, as many rights as any minority. When will we reach the point where we will say "all men are created equal" and we really mean it? When will we reach that point? We're making progress. We're making progress because the courts take words seriously. If you don't like what the courts say, pass a constitutional amendment saying get rid of equality. That's really what this bill is doing. Oh, the chairman of the Judiciary Committee on Channel 9 some day got up and spoke saying, "We need this bill because if we don't have this some people will be treated differently from others that are living on the same street, some might be able to be married and others not." What a bunch of baloney. Some people are being treated differently now than other people. Some people have the right to get married to someone they love and that's what it is all about, love. How can this be a threat to family values? When two people love each other and want to commit to that relationship, how can it be a threat to them? How can they be a threat to you? What's a threat to you, as my colleagues have said, is adultery, is divorce, is children being beaten, or priests molesting children and if you heard the news last night, this priest in a ritual apparently killed a nun 24 years ago and that's now being found out, that's the threat to our society. That's the threat to the values that we have. The threat is not two people in love, consummating that love. And then you say, "Oh, but gay people are promiscuous. They indulge in sex that is unsafe and they are spreading disease." How much more hypocrisy can you indulge in? It's because they can't get married that they are promiscuous. You allow gay people to get married, to get in these committed relationships and they're probably not going to have any more adulterous relationships than most straight people. Oh, I guess that means that they will have adulterous relationships.

Society, I believe, must be more than the sum of its individual parts. I've always legislated with that in mind. That's why I've always opposed the death penalty. I have the right to want to kill somebody who's hurt one of my fellow citizens, like my Representative from Manchester said who killed one of his relatives, I have the right to want that person killed but I don't think society has the right to do that. Society must be more than the sum of its parts. You, as an individual, have the right to be bigoted, to be hateful of anybody you want, but as legislators you must overcome that. You must come to the point where you realize that you are representing society and society must be more than individual hatred and individual bigotry.

Now, the first speaker in favor of this bill got up and said what I like to refer to as, "I am not a bigot" speech. I like to think of it as the Richard Nixon "I'm not a crook" speech. And I'm sure all of those of you wearing this little button will say no, I am not a bigot, but I personally know, because I sit very close to that person, that although he can say I am not a bigot, he has made anti-gay comments from this well as gay people have got up to speak over and over and over again. Well, those are the kind of people voting for this bill. I want no part of it. And some people will say, as the Representative from Portsmouth said earlier, "Yeah, but people really choose to be gay." And he and my fellow Representative from Manchester gave examples earlier, of how, well, maybe I wouldn't choose to be gay because I'm choosing to be scorned, to be spit upon, to be prejudiced against everywhere I go in my life. Maybe not today. It's kind of an in thing to be gay today, the Fab 5 after all are doing makeovers on "Queer Eye for the Straight Guy" all the time. But people have been gay throughout history and they didn't choose to be gay when Hitler was slaughtering gay people, along with Jews, and along with priests, and along with every other *untersmenschen* he could find. You don't choose to be gay. You don't choose to be something that's going to lead to you being slaughtered. Daniel Patrick Moynihan said everybody has the right to their opinion, but

you don't have the right to the facts. The facts are people don't choose to be gay. So, if you acknowledge the fact that people are gay and they have the right to be alive, then they have the right to full freedom and protection. All of you pro-life people, this is why it has always pained me to discuss the issue of abortion, you believe that the fetus is a person so we don't have the right to kill it. Well, if you believe a gay person is a human being when he or she is born, then you don't have the right to have anything other than full freedoms for that person.

And if you vote for this, fine, you can say, "Well, I may not be able to call you queer, or faggot, or homo anymore, but by God, I can do something to show that I am prejudiced." That's what you're doing. You are saying you're just as prejudiced, you can't be prejudiced against blacks, or Jews or women, there is still one segment of society you can be prejudiced against and it is gay people. And if you vote for this bill, you're saying, "I'm prejudiced against gay people." And I say to you go right ahead because the courts are going to say you can't be because Thomas Jefferson said all men are created equal and because when we say that pledge of allegiance we say "one nation indivisible," not dividable, "with liberty and justice for ALL." Not for midgets, not for white people, not for left-handed people, not for women, not for men, for ALL and that includes gay people unless you want to eradicate them from the planet.

I want to quote one final word. It's from a German named Walter Ulbricht, who, before he built the wall in Berlin in 1961, lied to the people of the world by saying, "Niemand hat die Absicht eine mauer zu errichine" – No one has the intention to build a wall. Well, he had the intention to build a wall. He built a wall and he killed thousands of people trying to escape to get the basic freedoms that they wanted. But if you pass this bill today, you're doing more than building a physical structure, you're building another wall not just between Massachusetts and New Hampshire but you are building a wall between human beings. You must never do that. You must remove those little circles from your vest and you must go forward considering all people equal. Thank you.

Rep. Craig: Thank you, Mr. Speaker. I rise in opposition to this bill and I don't think anyone here has accused me of being a gay rights activist, and I don't consider myself one. Everybody's talking about experiences. I grew up in the south end of Manchester and when I grew up homosexuals were different. I had to be manly and, you know, homosexuals, we called them names, sissies and other things I won't say here, but it was a herd mentality. And that's the way I grew up, I regret that but that's the way it was. Today I stand here and I understand that as I mature, too slowly for my wife, but nevertheless as I mature as a person and as a politician, I try to understand how other people feel and what's going on here. I try not to close my mind to things that are alien to me. The concept of gay marriage is alien to me. As my friend from New London said, I don't know anything about homosexuality, I've been married to the same woman for 30 years. That's what I know. When I first heard about this, there was something offensive to me about the vow that I took with my wife. I can't explain that. I don't know why it was like that but that was my honest reaction. It kind of cheapened my vow. Maybe I should apologize for that and maybe I shouldn't, but that's the way it was for me. And I don't think I'm that much different than a lot of our constituents in feeling that way. That's why I was happy that this bill was amended to put a study part to it because I think there are a lot of people like me and maybe people like you who need some time to understand this. You've heard people from Manchester and other places today speak very passionately about this. I know this is taking a lot of time, but people need to do what they need to. I'm trying to have patience and I hope that you will, too. That's what I'm trying to do here today, too. I'm trying to listen and trying to understand and I think the people of New Hampshire need to listen and understand.

My personal opinion is that it is coming whether I like it or not. But I think the better way to do it is to study it and to do it legislatively rather than have a court tell us how we are going to do it because it's just too fast and people don't like to be told what to do. But I think that in the end, people like us and our constituents will do the right thing whatever that may be.

So I could support the study portion of that bill, but what I can not support is the portion, what are we going to do in the meantime while we study this. I was also taught in the streets of Manchester right from wrong. I was taught in school, I was taught by my parents, right from wrong, morals and values. I find the second part of this bill wrong, just plain wrong. My friend from Walpole called that hurtful, that's a pretty good word. I understand that the reason that the proponents want to do this is because we don't want these black-robed oligarchs from Massachusetts telling us what to do. There are all kinds of reasons why we should close this loophole but every single one of

them comes back to why are we closing this loophole. Why do we want to close this loophole? We want to close this loophole because we are afraid of a new concept. We're afraid of something here. We're afraid of giving gays rights that they don't have right now. It's not the way we were brought up, it's not the way it's done and we don't want it put upon us.

Well, I just think that is absolutely wrong. Did you know that our statute, the one that the proponents are trying to amend here, has allowed for marriages performed legally in other states to be legal in New Hampshire if people move here? That's not a new concept. That has been the law of the state of New Hampshire for 39 years, the full term of Jack Benny's life, 39 years that has been on the books. What I find offensive about this bill is that we're changing that now. We're changing it for one reason, for one group of people, the one thing we're afraid of. We've got to study this. There's no question about that, but their act of discrimination is changing our law. I understand a lot of people don't like the way the law is but that's the way it's been for 39 years and we ought to stand up and own up to the law we've had and leave it as it is until we've had a chance to study it and then make the changes the state of New Hampshire wants to make whatever they may be. That's the only fair way to do this. That's the way we should do it and that's my only objection to this bill. What are we going to do in the meantime? That's the complete act of discrimination here. We're closing the door to other people, to other states who have public policies that are not the same as ours. If the law didn't allow it right now, then I guess I wouldn't be up here speaking about this. But our law has allowed it for 39 years and the discrimination here is we are changing it.

I've heard the argument that what we're doing discriminates against New Hampshire homosexual couples because it would give rights to out of state couples who moved in here that New Hampshire gay couples don't have. Well, there is some logic to that but I sat through most of the hearings and I heard not one gay person advocate for that position. So, I think for us to take that position is forcing something down people's throats who never asked for it. So I ask that you join me in defeating this bill because it is discriminatory and it's just plain wrong. Thank you.

Rep. Clemons: Thank you, Mr. Speaker. I come before you today to speak for the children. I have a niece who is a lesbian. I have loved her from the day she was born. She has been as much a part of my family during her growing years as my own children. As a young adult, she told the family she was lesbian. My love for her didn't end that day. My feelings for her were in no way altered. Today, she has a wonderful, loving partner and two of the sweetest, most adorable little boys you will ever encounter. The children are happy, well-adjusted with wonderful self images and the four of them are a family. My fears for those children and other children in gay/lesbian families are these: What will they encounter when they go to the playground? to kindergarten? to junior high? Will other children from less enlightened homes say to them, "My mommy or my daddy said I can't play with you, I can't go to a sleepover at your house or you can't come to my birthday party. You have two mommies or two daddies. You have a bad family. It's not a real family, it's a weird family or a strange family."

Or even worse, how many adolescent teenage children will be hurt? There are young gay and lesbian children out there right now. Some are already out, while others are still trying to find the right time and the right way to tell their families or their peers. And they are paying attention to us today. They want to see what the New Hampshire House does today that one way or another, one time or another will impact their lives. If we turn our backs on our children today, what message have we sent them? How many will become medically depressed, emotionally damaged? How many will attempt to end their lives and how many will actually succeed and die? They are children and young adults, if we fail them today some will blame themselves for who they are, not by choice but by birth. Even if they have been told by loving parents, "It's OK to be different." How will they be OK, if the state of New Hampshire says, "Your parents are wrong." The God I answer to says, "Judge not, lest ye be judged."

If you vote to pass this bill, let me caution you, the next time there's a newborn baby in your family, don't pick it up, don't hug it, don't kiss it and love it, wait until this child is in adolescence, just in case it discovers it is gay or lesbian. You wouldn't have wanted to waste all that love that you now have to withdraw because different is unacceptable. Voting in favor of this bill will be the first step in turning your back on our children. I urge you with all my heart, vote "no" on SB 427. Please, today, do no harm. Thank you.

Rep. Jane Kelley: Thank you, Mr. Speaker. First I want to tell you a little bit about me. I'm not heterosexual and I'm not homosexual. I'm in sexual retirement. I was laid off but I don't want it to get out of this room. As a justice of the peace since 1977, I have performed about 2,000 mar-

riages. These are civil marriages. A civil marriage is a binding contract between two people under the laws of the state of New Hampshire. It is not a sacrament. Marriage was invented by man. There are some who flip their Bibles to Leviticus where it states that it is an abomination if a man lies with another man. To use this as an argument is spurious and blindly prejudicial. Leviticus also says that a man who cuts his hair is unclean and could be stoned to death. And, by the look of him, I think Johnny Damon must have been reading Leviticus. It's also OK to have slaves but only if they're from another country or to sell your daughters into slavery according to the book of Genesis. The Old Testament is loaded with behavioral restrictions but always remember you can be made clean, i.e. without sin, by sacrificing two turtle doves.

I have been reading the Dead Sea Scrolls, I bet nobody else in this room is reading them right now, but anyway, and have discovered you can read the future by listening to the thunder. And I don't think the author meant it would be raining soon.

Prohibiting gay marriage or prohibiting the recognition of it when it was performed in another state gives rise to many questions. If a gay man marries a straight woman, is she the only one who is truly married? If a gay woman marries a straight man and has a baby, is the baby considered born out of wedlock? If only one of the partners, the straight one, wants to get a divorce, he can. But if the gay partner is not really married, will he or she have to get a divorce just the same? How can a divorce be granted to someone who isn't married? I think it is time for the state of New Hampshire to come out of the middle ages and recognize reality for what it is. Life is about change and acceptance is the key. This bill must have been sponsored by King Canute who sat at the ocean shore and ordered the tide not to come in. A representative from Maine recently suggested on the radio that the state stay out of the marriage business. I think he's referring to Maine, of course. Issue civil licenses and for those who want to have a religious service, let that be their own choice whether to marry in the sight of God, or the sight of Allah, or the sight of Buddha, or in the sight of Lhotse, or whichever of the myriad of religions that are available. This piece of legislation is not only redundant, but it is an abomination, as well. If you fear the influx of homosexuals from other states, I can assure you that you don't have to worry. The 2,000 free staters will have grabbed up all the available homesteads. We'll be lucky to have room for ourselves.

Please don't throw tolerance out the window. This is a silly bill, vote against it. Thank you very much. Rep. Chris Pappas: Thank you, Mr. Speaker, and thank you, fellow Representatives. Mr. Speaker, I rise in strong opposition to SB 427, a bill that accomplishes nothing, stands for nothing, says nothing to the state, to its marriage laws and to your constituents beyond a simple assault of those in this state who happen to be gay or happen to be lesbian. This bill is not about gay marriage in New Hampshire even though it claims to close a non-existent loophole in our law. This bill is not about first cousins even though the scope of this bill was expanded to justify its anti-gay aims. This bill is not about protecting marriage because we all know there are much better ways to sanctify heterosexual marriage than to prevent a few loving gays and lesbians from Massachusetts from crossing our border.

This bill and its underlying arguments have all been about the effort to bring the national struggle over gay marriage here to our state and to leverage it for political gain. The proponents have used every political ploy and twisted every argument to produce an alleged compromise proposal that should be palatable to this House. But everyone must see this bill for what it is. It's an anti-gay bill, plain and simple. No matter how it's dressed up. No matter how it's portrayed. No matter how it's amended. No matter who's up here defending it. This bill is a redundant, unnecessary bill that only serves to make a hateful, discriminatory political statement. Mr. Speaker, this bill is inconsistent both with the nature of this House and the people of our great state. This House, the media and the general public have been misled by the bill's proponents on a host of matters dealing with SB 427. Pardon the pun, but the record needs to be set straight. The main thrust of their argument, the proponents claim that SB 427 closes a loophole in our state's anti-gay marriage law. We've got to close that loophole, there's a loophole out there people from Massachusetts are going to come northward over the border and threaten our definition of marriage. The argument is patently untrue. New Hampshire has a definitive, unambiguous statute with respect to marriage that is between one man and one woman. Our Attorney General said our RSAs will stand regardless of what happens in Massachusetts and regardless of the outcome of this debate here today. The Governor of the State of New Hampshire agreed, not acknowledging the existence of a loophole and saying that this bill was probably not needed to accomplish the aims of its sponsors to keep marriages as a heterosexual only institution. Furthermore, the Attorney General of that state which supposedly

threatens us with marriage between two loving individuals who happen to be gay, that Attorney General of that state of Massachusetts has reiterated that a law in Massachusetts will prevent out-of-state couples from being married in Massachusetts and that should those couples move their marriages will not be portable to other states, meaning that New Hampshire will not have to recognize gay marriages performed in Massachusetts. In addition, the federal Defense of Marriage Act adds another layer of protection and immunity for New Hampshire from other states' marriage statutes. Let these thoughts not escape you, my fellow representatives. New Hampshire does not allow gay marriage and won't allow gay marriage with or without this bill. Massachusetts law will not allow gay marriage to permeate our borders and the federal statute further solidifies our position.

The backers of this bill have gotten all riled up over a non-existent loophole. They have misled us with their arguments and I urge you not to be a part of that reactionary, anti-gay hysteria.

Mr. Speaker, there is one practical effect that SB 427 could have but it's not part of the loophole about which the proponents mistakenly speak. This bill could only have an impact on those Massachusetts couples, residents of Massachusetts, married in Massachusetts who travel to or thorough New Hampshire as a same-sex married couple. New Hampshire could be forced to deny those couples hospital visitations should they be in an accident on Interstate 95 on the way to Maine for instance. They could deny one partner access to the body should the other partner die all of a sudden on a trip to Lake Winnepausakee one summer. Mr. Speaker, New Hampshire is a tourist haven, not a tourist trap. Our state is proud of its natural beauty and its heritage. We have taken careful steps to cultivate our tourist industry that benefits our economy and our people. Punishing gay tourists from Massachusetts runs contrary both to common decency and to our economic aims. And while there is no loophole, the practical effect of this bill, one I think we can all easily agree, is improper and an extreme way of saying, "We don't like gay marriage," is to punish those tourists.

Another sensational argument has been made, Mr. Speaker, that we should not allow four judges from the state of Massachusetts to decide our marriage policy for us here in New Hampshire. We know that is not the case because there's no loophole in the first place. But I argue that the proponents of this bill are grasping at political straws. They're trying again to whip us up into hysterics by playing the judge card this time. Trying to tie this bill to the handiwork of liberal Massachusetts judges. Mr. Speaker, there is no loophole regardless of which political bogeyman is supposedly behind it. We run the risk of selling out to other more menacing out-of-state interests should this bill pass.

This bill is part of a coordinated national campaign by the religious right, by Christian fundamentalists, to burn any last shred of hope that gays or lesbians in this country can have free equal treatment. The national campaign has peddled, to state and local governments, initiatives like this one and even some that are even more punitive towards gays and lesbians. Mr. Speaker, we are the New Hampshire legislature and we serve the people of this great state of New Hampshire just as we are wary of Massachusetts judges defining for us what marriage is and what marriage is not. We should not become puppets of any political group. We should not become the tools of any Christian fundamentalist campaign that has no business telling this House how to legislate. We should not be taken by an ideology that also contemplates an amendment to our sacred federal constitution. That also has designs on repealing anti-gay discrimination laws. That also has in its crosshairs the rights of individuals in this country to exist equally free. Mr. Speaker, that ideology sounds a lot like the Bible Belt but it sounds very little like the state of New Hampshire. Our state is one that cherishes each individual. Our state is one that affords the rights and dignity to every individual in this state. We shun heavy-handed government regulation. We shun moral meddling by the government into people's lives. Mr. Speaker, this legislature in this state has always fought to maintain the boundaries between the religious institutions in this state and the government in this state. This bill has been portrayed as a way to honor the religious tradition of marriage and a way to codify it. This legislature should not be in the business of subscribing to any one field or buying wholesale the words and teachings of any church. Testimony was actually given by more religious leaders, representing more religious institutions opposed to the bill than in favor of the bill. The proponents, therefore, don't just represent a religious point of view. They represent a very narrow religious point of view. It would fly in the face of our constitution either way, however, and our political tradition and our political mores to simply encode religious doctrine into law. We should not be doing the dirty work of a Christian fundamentalist movement and we should not be carrying the banner of any church or religious institution. We should not be the tool for any

religious group and we should not be the proving ground for any religious leader in our state. We are not having our laws dictated by Massachusetts judges because there is no loophole, but we will have our laws dictated by a national right-wing political movement should this bill pass. Mr. Speaker, this House can not let that happen.

Another insidious line of thinking I heard in testimony supporting this bill began with the defense, "Some of my best friends are gay, but." Mr. Speaker, no friend of the gay community supports this bill. One can contemplate that sort of phrasing, some of my best friends are gay but, being used as an attack or as a way of softening an attack on a myriad of minority groups. Anti-Semites likely said they had a lot of Jewish friends in the past. People who are segregationists likely said they had a lot of black friends in the past. One is not being a friend to any gay person by supporting or by voting for this bill. This bill is a re-statement of discriminatory legal language and is therefore a painful affront to every gay and lesbian citizen in our state and every freedom loving, diversity respecting citizen of our state as well.

The most ridiculous argument for this bill was repeated several times by committee members and it found its way into the blurb and it goes something like this - that because we don't afford equal right to our gays here in New Hampshire, that we should somehow make sure that we go out of our way to prevent those gays and lesbians who want to enter into a committed relationship in Massachusetts, we should somehow prevent them from ever hoping to have their marriage recognized by New Hampshire. That somehow because equal rights aren't granted, that equal rights if they are not there, that they should be equally denied. I think that this is a perversion of the equal protection statute and I think it's a pretty laughable claim when you get right down to it.

It was also implied by many in support of this bill that public opinion was on the side of the proponents. Well, the opinion polls surely, as we all know, are never a good way to legislate and they are never a good way to lead. I think some of you may be surprised and some in the gallery may be surprised to learn that a majority of people in this state actually do support same-sex marriage rights for New Hampshire couples regardless of what the situation is with Massachusetts. Last year 54% in a UNH study said that they supported gay marriage for New Hampshire gays and lesbians, and 55% in a similar poll this year answered that question in the affirmative as well. Our state and each of your constituencies are tolerant, open-minded and respectful and I think those polls point to that fact and that here today in 2004 they are willing to stand up and to give their voice for gay marriage.

Mr. Speaker, the proponents of this bill have given us nothing but untruths and fallacy. This House needs to retain its tradition of rejecting fear and respecting each individual and each individual's dignity and rights in our state. Someone should tell them that their crusade against gay marriage is simply not germane to the bill before us. The arguments that have been proffered are flat out wrong. We've heard we've got to close a loophole when none exists because of all the laws that are definitive that we already have on the books. We've heard we've got to prevent gay marriage at any cost when we've actually already done that in New Hampshire. We've heard that we have to stop gay couples from coming here when only practically we'll punish the tourists. We've heard that if we don't act, four judges from Massachusetts will define for us what our marriage laws are when that is simply not the case and actually will be buying into a national political movement on the other extreme. We've heard people say that some of their best friends are gay, when no real friends of gays or lesbians would support this bill. We've heard that we have to deny Massachusetts couples their rights because we already deny them to our own citizens, when sponsors have no intention of extending to gays and lesbians in New Hampshire the same rights that Massachusetts couples will enjoy. We've heard hate and we've heard fear. We've heard closed-mindedness and we've heard every argument under the sun why this bill is needed and good. But no argument has yet been given that stands up to a simple test of rationality and to common decency. None of the arguments of this bill's proponents that they have given us should compel us to pass a redundant bill that singles out one specific group in the state of New Hampshire for more discrimination, more hurt, and more pain. I urge you all to vote consistent with your consciences and the values of this House and have always guided this state. Vote down the false reasoning that has been given. Vote down the hate and fear that has been expressed. Vote down a cause of a fanatical few in this body. Vote down this committee report, the amendment and the bill. No matter how this bill is dressed up, no matter how it's amended, no matter who's up here defending it and what it looks like in the final analysis - it's a slap in the face to gays and lesbians across our state. Vote it down and stand not just for them, but stand for common decency and the New Hampshire way. Thank you.



Rep. Leach: Thank you, Mr. Speaker. In the cacophony surrounding this issue we hear words and phrases such as sanctity of marriage, equal rights, civil union, traditional marriage, love, commitment, and we would like to believe each word, each phrase is then backed up by one's belief or experience. But as I've listened to the dissidents, I have come to believe that little if any of the conclusions on either side have that kind of historical sustainability as it relates to this issue. I see neither facts nor past experience that truly forms a basis for making a solid argument as it pertains to this issue.

Yes, you can make a great argument for marriage. You can make a great argument for equal rights. But when you shuffle all the pieces that are raging in this debate, they do not coalesce into a tightly knit conclusion that has a specific precedent.

Thus we must conclude that we are dealing with a new experience, a new societal overlay, an unknown. I have always thought that unknowns are the easiest things to prove. With no wellspring of precedent or history to either prove or disprove, one is pretty much free to construct a factual collage that incorporates those ideas that will support his or her argument. Others may take that descriptive interpretation and often using the same information will point the way to a completely different conclusion.

I think fear is at the core of the impasse on the same-sex marriage issue. I have received a couple of e-mails this past week imploring me to preserve the sanctity of marriage. Marriage isn't sanctified until a church makes it so. A justice of the peace in a drive-thru marriage hut in Las Vegas isn't rolling out a sacred moment for the happy couple. He's marrying them, getting them hitched and cashing the check before they sober up in the morning. A priest, rabbi, pastor or mullah can perform almost that same marriage ceremony but present it in the doctrine of a religion and suddenly there is a different solemnity to the action. Both were marriages, but one stayed on the secular side of the board and the other crossed over to the religious side. If a church wishes to exclude same sex marriages, it has a right to do that and nothing in the debate has ever hinted that it should be otherwise. But should government be excluding same-sex marriages? I believe that those asking for recognition of same-sex marriage are not desirous of invading the religious side of the board. It is only a request by people of the same sex to be allowed to marry and pledge their love and commitment to one another. In the process they would be accorded all of the rights, privileges and equal protection that society gives to married heterosexual couples.

Pushing back are people being confronted with that unknown and our natural tendency is to fear the unknown. History sadly tells us that our reaction to an unknown is not always wholesome. We have stoned lepers, burned and drowned witches, locked people in asylums for their entire lives and sent blacks to the back of the bus. We have allowed fear mongering senators to trample reputations while colleagues sat meekly on the sidelines. We just don't do the fear thing very well. But we have all experienced that kind of fear and it is a major and emotional consideration in the current debate.

In his book, *A Soldier's Way, an Autobiography*, Gen. Colin Powell said conquering one's fears is exhilarating. Before we as a legislature rush headlong into this controversy, I think it would be helpful to take a step back and see what fears need to be conquered. The chairman of the Judiciary Committee was correct when I watched him on television last week. To paraphrase his remarks, he said that this issue is not going to go away and we need to sit down and go through the statutes line by line to see just what rights are at the core of this issue. But part of this bill ignores that good advice and takes aim at same-sex couples who happen to move to New Hampshire. In our fear we are saying, "Welcome to New Hampshire but please leave your marriage license by the side of the road at the state line, because when you come to New Hampshire, your marriage is over." Is that fair? Is that right? Is that principled? Absolutely not. It is discriminatory, bigoted, intolerant and reprehensible. We are setting the barn on fire today so we can put it out tomorrow. And the lame argument that suggests that we are granting rights to people moving here that we haven't granted to our own residents merely demonstrates that there is yet work to be done in order to have a state with liberty and justice for all.

This bill should not take another step. It should be bisected. Let's not add or subtract anything from our current law. Instead we should grab that concept from the bill that is civil and does ask this body to follow the chairman's suggestion to go through all of our statutes line by line and craft a good piece of legislation built on solid facts, knowledge of all legal impacts and one that is fair to all. I ask you to put this miserable bill out of its misery and instead let's launch a well-structured study committee that is in a forthcoming amendment. Thank you very much.

Rep. Diamond: Mr. Speaker and fellow lawmakers, I'm not going to use this time to add anything to what has already been said because it has been said so eloquently. Instead I want to thank everyone who has spoken honestly, passionately in ways I have not heard before as a legislator in this body. This is a second year of a first term and it has renewed my commitment to the fact that important things, really important things, can be said and be heard in this body and I feel proud to be a member of it. Thank you very much.

Rep. Mitchell: Thank you, Mr. Speaker. I would ask for a quorum call.

Speaker Chandler: Rep. Mitchell requests a quorum call, anyone in the anteroom is requested to come in to the Hall. Member will proceed.

Rep. Mitchell: Mr. Speaker you told me I may proceed but I did not see anyone enter the Hall and there are still many empty seats.

Speaker: If there's anyone in the anteroom, they are requested to come in. If there is anyone in the anteroom I believe they've come in. Rep. Mitchell has requested a quorum call, any members in the anteroom are requested to come in to the Hall please. (repeats again) I will point out, the member, Rep. Mitchell has requested a quorum call, if a member requests a quorum call, if you're in the anteroom you need to come into the Hall. You can leave the anteroom if you want and that's OK...If you're there you have to come in.

Rep. Mitchell: Thank you, Mr. Speaker. Honorable members. I rise today in opposition to SB 427 and the committee report of Ought to Pass. I have had the honor of serving this House for the last six years and I will not be returning to this chamber. I would like to talk to you about my personal experience. I really don't consider it a story. I consider it a life experience. An experience that is still going on today and will probably continue until I die. I'm from the town of Chesterfield, born in Brattleboro, Vermont, as were my parents born in Brattleboro, Vermont, raised on a dairy farm, a dairy farm of 350 acres in the hills of Chesterfield, not down on the river. Through that period of time of growing up and going to school, I had a horrible ongoing experience both elementary and secondary, constant names, teasing, bullying. It has left scars. I probably will never get rid of those scars. As life continued for me, something changed in my family's life. My father became a born again Christian. He took the family with him. I was no longer having problems in school but I also had an idea about myself that I had not shared with anybody. He took us to church not once on Sunday, but twice on Sunday. We had to sit through Bible study two days a week that was held in my home. The entire time I was basically being brainwashed, being told this is who you need to be, completely denying who I really was. To help me get through all of this, I filled my life with work, work and work. I filled every waking moment with work. What was that work? Well, I was not only a volunteer fireman for the town of Chesterfield, but I was also a police officer fulltime and security guard at the Keene or now Cheshire Hospital. Needless to say, I was working so hard my eating habits were poor. I was constantly exhausted, basically wearing myself out because I just couldn't face it anymore. Yes, I considered suicide a number of times, but I'm happy that I did not follow through on that. I woke up one morning, and I told somebody, "I woke up this morning with chest pains," and I explained it to them. They said, "You ought to go see a doctor." I gave it some thought and I decided, yes, I better go see a doctor. I didn't call an ambulance. I figured well, you know, it's nothing too serious, got in my car and drove to the hospital, to Brattleboro hospital, the emergency room and told them what was going on. They gave me some tests. The doctor came in and said, "You're not going anywhere, you're going right into the intensive care unit." And I said, "What's the matter, Doctor?" He said, "You have had a mild coronary."

While in the hospital for that week, getting better and stronger, the doctor told me, "You need to change some things in your life. Actually, McKim, I think there's something in your life that you need to come clean with. I think perhaps you're not being honest with yourself and I would like you to share that with me, if you're comfortable with that. But I must say that if you don't, you really are not going to get much better." I said, "Doctor, I'm gay." We talked and he asked if I would like him to speak to my parents. And I said, "Please, do." I thought he was doing me a favor. Yeah, I told them, but he told them this is a phase that your son is going through, it's not permanent. It will end. Well, there was not much communication after that with my parents. I went back home with them after getting out of the hospital. I think they were doing some serious thinking, as I was. One night I came home from work and Dad was in the living room alone in the house and he said, "McKim, come in here. I want to talk to you about something." And I walked into the living room and I sat down and I said, "What is it, Dad?" He replied, "What is this I hear about all your

men friends?" I said, "Well Dad, what do you want to hear?" I opened myself up like a book. His response was, "This is not my son speaking, this is the devil," and I said, "It is your son speaking. This is the first time you have had the interest and the time to actually sit down and talk. Believe what you will, Dad, but I know who I am and I always will be."

Time progressed. I met a man, his name was Jon. Jon is still in my life. In this 350 acres, my father had bought a sort of a small, separate individual farm in the late '60s. It was 53 acres, I'd always loved it as a kid. It was always sort of understood that it was going to be mine. Well, I told Dad, "I'm ready to acquire the land. Jon and I want to build our house." Jon was not present, fortunately. Dad's response: "You're not married, you probably will never be married. The land will never be yours and you will not be allowed to build your home." With that I turned to Dad and Mom and I said goodbye. I casually, quietly just walked out of the house, closed the door gently behind me and two years passed and I had not communicated once with them. But I heard from a family member that my father was going to speak to me. So I decided, well, if he wants to speak to me, I will give him a call, so I did. He said, "Yes, McKim, I do want to speak to you." So I said, "Well, let's set up a time." And I went and he said, "Well, I want you to have that land and I want you and Jon to build that house, but I will tell you this; Jon's name shall never appear on the deed. Your name for the five acres for the house lot will be yours and yours alone. The remaining deeds to the remaining 50 acres will be in your name, my name and your mother's name." That's the way it is still to this day.

Thanksgivings, Christmas, we are not invited. I have not had a Thanksgiving or Christmas with them for years. I'm simply not welcomed. Yet, we all live on the same road. To get to my house, every time I have to go by my father's house, I go by my brother's house. I am the last place, I'm at a dead end road. We're all there but I'm not allowed to be a part. I have two nieces and a nephew. Two beautiful girls, one extremely intelligent, very talented, she composes music, some it has actually been published. They are not allowed to visit their uncle. They are in their teens. They have not once been in my house. No matter what I accomplish, no matter how much I'm accepted by other people and I know I have been accepted by many of you here and I really greatly appreciate it because it's allowed me to continue to live. Jon and I last year, December 29, 2003, we celebrated our 25<sup>th</sup> anniversary. And March 31, 2004, I celebrated my 50<sup>th</sup> birthday. Like a good son I actually hand-delivered an invitation to my father and to my brother and asked them to please join me and my friends. Actually, our friends are in greater numbers heterosexual. They're members of the community. I had over 80 people in my house, but Dad and Peter, Shelly his wife, my nieces and my nephew did not show.

Like I said, I've been very proud to serve my community, my state and I will continue to do so as long as the people still want me, but I have also heard in the past campaigns that people say, "I'm not going to vote for that faggot. I'm not going to vote for that queer." Well, that's their choice. But fortunately, I think, it's great that there are some people who are accepting, are willing to put their faith and trust in me to do what's right, for the community, for the children and for the state. In closing Mr. Speaker, I would just simply remind you, that we are everywhere. We are teachers, we are doctors, we are nurses, we are servicemen, we are police officers, we are firemen. We all serve the community and we all need to be shown respect. Mr. Speaker, if this bill passes that will send a horrible message to a lot of people. So, please, please think seriously before you push that vote and vote against this bill. Thank you, Mr. Speaker.

Rep. Peter Allen: Thank you very much, Mr. Speaker. I'll be as brief as I can and that's pretty brief. Rather than elaborate on what I was going to say, I want to just point out that I'm a member of the Unitarian Universalist Church, I'm a regular churchgoer and we affirm seven principles. The first is the inherent worth and dignity of every individual. Now that may bother you a little bit, but let me tell you about one guy I know pretty well. He's a friend of mine. He's the Representative from Portsmouth, from Portsmouth, who spoke earlier. He and I were freshmen newly-elected senators in 1979, 35 years ago. He saw me in the hall and he said, "Pete, you want to co-sponsor a bill of mine?" and I said, "Well, what is it?" He said, "It would set up a Martin Luther King holiday." It took me one second to say "sure" because I'd worked in Tidewater, Virginia while I was in grad school and I saw how hard those white, Tidewater, Virginians worked to keep the blacks in their place. The whites I talked with freely admitted they needed their cheap labor.

What I'm trying to tell you is that my friend from Portsmouth is a leader. He's not just a legislator, he's a leader. It took 17 years before the State of New Hampshire finally passed a Martin Luther King holiday. The inherent worth and dignity of every individual is real. Thank you, Mr. Speaker.

Rep. Phyllis Woods: Thank you, Mr. Speaker and thank you members of the House. Let me be very clear about one thing. Despite all the emotional debate about this issue, the reality is that this bill is not about whether New Hampshire is going to have gay marriages or civil unions. It's about whether we are going to preserve New Hampshire's sovereign right to determine its own public policy and not have the laws of other states imposed on our people. Senate Bill 427 was written to address an inconsistency in our marriage laws. We want all New Hampshire citizens to be treated the same with respect to marriage whether they are long-term residents of the state or they've recently moved here from another state. Our public policy on marriage should be consistent and should define the attributes of marriage for all of our citizens equally.

New Hampshire laws already prohibited marriage between members of the same sex. This bill doesn't change that but our laws only apply to New Hampshire residents. SB 427 closes a loophole in the law that would permit nonresident, same-sex couples who marry outside the state to move here and have their marriages recognized here. As currently written, our laws create a great inequity for New Hampshire residents by conferring recognition to new residents not permitted to same-sex couples already here in the state. And don't let anyone tell you there is no loophole. Our present law RSA 457:3 asserts in part, "Any marriage legally contracted outside of this state by persons not domiciled in this state and valid in the jurisdiction where contracted, shall be recognized as valid in this state for all purposes, if or once said contracting parties are or become permanent residents of this state subsequent to such marriage." The wording of the majority amendment closes this loophole by simply stating, "Marriages legally contracted outside the state of New Hampshire which would be prohibited if contracted in New Hampshire shall not be legally recognized in this state." Thus, we would not be forced to recognize gay marriages contracted outside of the state. Furthermore, for all who feel that there are aspects of same-sex civil marriages, domestic partnerships, civil unions or otherwise, that are legitimate subjects for discussion and potential legislation, the bill adds a section establishing a commission to address those issues.

Any fundamental change in the definition of marriage in New Hampshire should be the result of careful consideration by our own legislature and not the executive, legislative or courts of another state. Alabama, Arkansas, and Mississippi should not be able to impose their social and cultural beliefs upon the people of New Hampshire any more than the Supreme Judicial Court of Massachusetts. The people of New Hampshire elect representatives to set social policies which they, not the social, cultural and resultant policies which the citizens of other states, favor. We are always open to search for creative solutions in order to ensure that all the people whom we represent are treated fairly, compassionately and equally in law.

Please vote "yes" on Ought to Pass on the majority of the committee report to preserve our right to self-governance. Thank you, Mr. Speaker.

Rep. Marjorie Smith: Mr. Speaker, I rise in opposition to the committee position of Ought to Pass and ask all of you to join me in voting down that position and instead moving ITL. Mr. Speaker, I have been married for almost 38 years and during those 38 years I never believed in the quantum theory of love and loyalty. I never believed there was only so much love and loyalty to go around that in order for me to experience love and loyalty I would have to make sure that others, my friends, my neighbors and my family could not also experience love and loyalty. I've always felt that if my neighbor was happy that should add to my happiness, not detract from my happiness. When I met my husband we were each working in Washington. My husband was working in the Civil Rights Division of the Justice Department at a time when the Civil Rights Division and the Justice Department believed in civil rights. He was instrumental in writing the Civil Rights Act of 1964. I, a year later, was the first staff member of Equal Employment Opportunity Commission.

Twenty years later, we were living in Baltimore and one of our friends, a terrific, wonderful, gentle man who happened to be a pretty fabulous player in the left field of Fenway Park, asked Peter if he would like to play golf with him. Well, Peter, who had argued before the Supreme Court and never felt a qualm, was suddenly terrified because he wasn't sure that he was up to the task of playing golf with Jim Rice. So every morning Peter would get up and in our bedroom he would practice his swing concerned that he wasn't going to be able to measure up and only a couple of weeks before the actual date, he suddenly realized he'd better make arrangements about where they would play. And he began to call our friends who were members of private golf courses in Baltimore. This was 20 years after the passage of the Civil Rights Act. Friend after friend said, "Oh, I'd like nothing more than to join a foursome with you and play golf with Jim Rice, but I am afraid

that I cannot invite Jim Rice to play golf at my golf course. I would have to give up my membership." And this happened with every person we knew who belonged to every golf club in the City of Baltimore and the surrounding county. Finally, we were able to find a public course where we could make the necessary arrangements and they had a wonderful day playing golf. There were one or two moments of difficulty because when Jim Rice drove the ball, his aim wasn't so fabulous but he drove it so far that sometimes he ended up past the hole onto the next hole. This was a man who was so powerful that when he checked swing at home plate sometimes the bat broke, not because of contact with the ball, but just of his strength of stopping the forward motion. This man, this gentle and lovely man whose children were never permitted to see him play because their first obligation was school, this man who grew up in South Carolina and was told, "You face this fight that you're going to face as a black trying to play baseball and we'll make you a rich man." This man was not permitted to play golf in Maryland.

I tell you this story not because in an hour the Red Sox will hit the field for the afternoon game but because if we follow the logic that the proponents of this bill have put forward before us who have said we have to close a loophole, the way they would have us close the loophole would be to say that in every state of the United States we should have slavery and we should deny everyone the right to equality in front of the law because in some states there was slavery and some people were denied.

My idea of this nation is not to try to find the lowest level we could possibly reach, but the highest level. I think the story is relevant and I hope that you do, too. I do want to just take a minute or two to welcome here to the New Hampshire House some of our friends and your constituents who are in the gallery. These are people who have sat through this debate because they believe in the power of a representative form of government and they have faith that we are going to do the right thing. I would like to introduce you to Dawn Lizotte and Deb Lacrosse who I think we heard from a little earlier, they have been together for four years and they live in Chichester. I would like to introduce to you Lisa Beal. Lisa lives in Franklin. She has congestive heart failure which makes her very concerned that her wife and the life they have built together be protected. The documents they can utilize right now are not sufficient. She is concerned that the language in Senate Bill 427 may make contention of her marriage-related, marriage-like contract possible. She may not have many years left but to be able to live those years with less worry and the peace of mind that her family will be safe when she is gone is priceless. I'd like to introduce you to someone who you might remember from earlier years when she served in this very House. I'd like to introduce you to Gail Morrison who is now living in Tilton and has been with her partner for 22 years. I'd like to introduce you to Ed Butler, co-owner of the Notchland Inn in Hart's Location. He has been with his partner, Les Shute for 26 years. They are active members of their local Chamber of Commerce. Ed is the chair of the Hart's Location Planning Board. Les is the Town Moderator and they are making our state better in everything that they do. These are the people whose lives we affect every day here and I hope for those of you who have listened to what has been a very long debate will long remember this as one of the most remarkable mornings that this House has ever experienced when our friends, our colleagues, our friends, our neighbors have trusted us enough to share with us their own personal stories knowing that in the end you will do the right thing. Thank you, Mr. Speaker.

Rep. Haytayan: Thank you, Mr. Speaker. I don't know where to start. I've been here all morning, I've listened to a lot of emotional talk, I've heard about the Red Sox, Jim Rice but I'm here on behalf of the Judiciary Committee, I'm here on behalf of the majority of the Judiciary Committee and I'm here to talk about the facts and about the amendment. Let me just say as a footnote here, before I go any further, I take notes, I never prepare speeches, I like to hear what people have to say and I like to take notes 'cause I want to respond. I've lost track of things to talk about whether it be slavery, or the holocaust, or personal stories, I don't take issue with any of that. We've all got our own story, I think. You know, a year ago I was in my freshman year and I'm of Armenian ancestry. We've got our story of Armenian genocide on April 24<sup>th</sup> and I've often thought about coming before you and talking about that. To be candid with you, sometimes it's too personal to talk about. I realize we all have scars and I would say to those people who have them, I think we need to approach this as a community. I think we need to approach this together. I think we need to approach this compassionately and with respect. I said to my good colleague from Manchester and Walpole when I got a little upset with the tenor of the dialogue that I had stepped into this fray in my first term, and I often looked to the chairman of the Judiciary Committee for guidance.

Sometimes, I've been told, it's not your fight. But I think that this is all of our fight. Those of us who are going to be back here next term, we are going to be dealing with this issue. My only hope is that however we proceed, we tone down the rhetoric. We respect each other and our motives. There's good will in 400 chairs here in this chamber. No one has got a monopoly on goodwill or morality or the correct perspective here. We all realize that we have to move forward on this issue. But I would ask all of you to take a breath and let's proceed together. Our constitution begins with three words, "We the People," and this chamber more than any other institution in this state represents the people of this state. We are more proportionately representative than any chamber in this state and probably most likely any chamber in the world. So we are speaking for our constituents. I think our constituents deserve the highest quality of debate, the highest quality of compassion, and the highest quality of careful thought. One of my favorite quotes from Lincoln in times of emotional debate is that he would always try to approach things with cold, calculated, compassionate reason. So that's what I'm going to try to do here. Now, I realize you've sat through about three hours of a lot of emotion and I'm not sure to be quite candid with you that I have it within my capacity to return to rationality, but I'm going to try to do that. And the reason I'm going to try to do that is I'm concerned about where this debate goes from here. 'Cause if we don't approach this calmly and rationally, it's really going to get off the rails.

Let me try to do something one of my law professors used to do when we got off the rails, he used to say, "Take me to the language." So let's go to the language. Let's go to the amendment, the committee amendment that came out 13 to 8. And I also want to say as a footnote that what the Senate sent us is no longer here before you. I've heard speakers stand up and quote from the Senate bill that is not even on the floor. The bill that the Judiciary Committee passed looks nothing like 427 when it came over. So I'd ask you that if you do nothing else today before you vote, please at least read the amendment. I'd also point out to you that in the course of doing the work on the amendment, we came this close to having virtually a unanimous vote on this bill, the report Ought to Pass as Amended. I'll point out to my good colleagues on the side, that they are well aware of that. At the end of the discussion, things seemed to fall apart. Why? Maybe I'm just learning and maybe this is more about politics than it is about policy. I'm new here. I'm still learning.

Let's go to the language. What this bill attempts to do is do two things. It attempts in the first instance to say that we as a state are all going to play by the same rules. If we want to pass a law that acknowledges civil unions or gay marriage, we the people of New Hampshire, the elected officials of New Hampshire are going to do it. It says that we are going to treat the citizens of our state the same and we are going to have the political courage to say that and to do it. It creates one category of recognition of marriage. It mentions nothing at all about gay marriage, at all. The bill doesn't say a word about it. If you look at the language, we're going to amend RSA 457:3, to simply say this: we have a set of rules in New Hampshire and these are what they are. Whether you live here and you get married here or you live somewhere else and you get married there and move here, everyone is playing by the same rules. That's all Section I does. Read it carefully before you vote 'cause all this rhetoric about how it's directed at one category, if you read the bill I ask you to try to find that category. It doesn't exist.

The second section of the bill establishes the study commission and the task of that commission is to look into the very issues everyone is so upset about. That is legitimately before us and that will be with us, I can assure all the members, in the next session, and the session after that, and however long it takes for us to come together as a community to solve this issue. Now, we all supported the notion of the study, I think, I don't know maybe that has changed too, maybe there's something that I've missed. The reason we passed this out the way we did, was simply this. I think you would have to live on the moon not to know what's going on in Massachusetts. Now, there were four justices of the Supreme Judicial Court, four of seven that took a certain position, and from what I understand that was a close call anyway. You know we just celebrated the anniversary of Brown vs. the Board of Education. That was, I believe, a 9 to nothing decision, unanimous, separate but equal is not equal. 9 to 0. Where our Supreme Court spoke for the entire nation. Now, what we have before us, the issue that's been articulated, is a difficult one. But please, take a step back. One Supreme Court, state Supreme Court, out of fifty in the United States, has recognized under their state constitution certain rights and privileges. Now, I'll ask you to read that opinion. Maybe they're right, I don't know. The commission that we have in this bill will certainly look at their reasoning. Maybe we've got it wrong the way that we're doing things now. But one out of

fifty, this is not Brown vs Board of Education... There is not a consensus yet, there may be someday. Maybe as a community we can all get there. But if we're going to do it, we're going to do it, I think, with a mechanism that allows us to do it as a legislature. We should not be closing our eyes to the issue by simply saying, "Pretend it isn't there. Kill the bill."

You want to know why? I'll tell you, it's really simple. Classic equal protection. We have one set of rules for our citizens in the state who get married here and we're going to have another set of rules for people who get married across the border and then move here? If you want to invite a constitutional confrontation or you want to start debating constitutional amendments instead of doing this through the legislative process, then you probably should kill the bill. I have a prediction for you. If you don't pass this bill which is a thoughtful, careful approach that looks forward, what you're probably going to have is some type of law suit brought by someone in the state legitimately so, that says you have one set of rules for me 'cause I live here and you have another set of rules for people that live elsewhere and then move here, well, that a violation of equal protection. Now that's very good equal protection analysis. If we want and we don't have the political courage to step up and say "Let's look at this and let's move forward," we can just shrug on this. Wouldn't hurt any of us, I guess, but what we would be confronted with is the court doing something that we should be doing. A court looking a public policy and writing an opinion that reads like a public policy statement instead of a carefully thought out delineation of constitutional law. So, what we would be confronted with is an opinion from a court, and then another prediction in my naivete here as a first term representative, probably a constitutional amendment. I would ask my colleagues from the Judiciary Committee, as I did during the debate in the committee, "What's the right way to go forward here. How are we going to resolve this?" Shouldn't we be resolving this with legal briefs over at Noble Drive where we brief the issue on both sides and a couple of lawyers stand up and argue it and we get the justices to make the decision. Is that how we resolve this? Or should we resolve it in this chamber? Do we want to resolve this through statute and through a careful study or do we resolve this through a lawsuit with legal briefs and then talk about amending the constitution? Is that what we want to do? I don't think so.

And I want to stand here in particular defense of the Judiciary Committee, because I will tell you we all sat here and listened during the testimony and heard some very compelling testimony about how members of our community aren't treated with respect and are discriminated against, and do have scars. And all of us, all 21 members of our committee whether they voted with the majority or not, have compassion for those people and have respect for those people. This isn't about a religion. This isn't about some vast rightwing conspiracy. This isn't about some secret agenda. All 21 members of our Judiciary Committee are good, compassionate, decent people and they all understand the complexities of this issue. They all want to move forward on this issue. I take particular offense as a member of that committee for anyone to suggest otherwise.

Mr. Speaker, I'm not sure there's anything left to say other than this: you many times have looked at what comes out of the Judiciary Committee and I will tell you, I'm almost done with my first term, we don't pass junk. The chairman makes sure of that. Members in the minority, "We're this close," I was told, to supporting this. I don't know what happened. I'm still learning around here. I don't know what this is all about. Because we are all willing to move forward and to come back with some solutions as a legislature. Now, maybe some people would rather have this decided by another body. I don't think that's the responsible thing to do. So I would ask you before you vote, please, go to the language of the bill and then look at where it came from, it came from the House Judiciary Committee and I would ask you to support the majority of that committee and vote Ought to Pass. Thank you, Mr. Speaker.

(Majority Committee Amendment adopted - roll call vote)

### Debate on Floor Amendment (1410h)

Rep. Laskey: (offered floor amendment 1410h) Thank you, Mr. Speaker, I apologize. I got confused in the parliamentary procedure, I understood there were other amendments and I sort of sat back waiting for that to happen. So I apologize and I thank you, Mr. Speaker, for allowing me to speak to this. Basically, and I will be very brief, this amendment is something that the subcommittee of the Judiciary Committee agreed to and came about as a result of something that was presented at our hearing. There are a few minor things, but they are also things that were just inadvertently left out of the amendment as you see it from the Judiciary, the latter half. What this

does do that is different though, it is only a study commission and it amends the bill to enact a commission that would examine all aspects of same-sex civil marriage and its legal equivalents. The changes are in the four members of the House of Representatives which you can read and the other part is that at the discretion of the commission meetings may be held throughout the state and that is the part I would just like to speak to for a second. If that is the wish of the commission, and it is passed, and meetings are held throughout the state it would give an opportunity for everyone in this state to take part in the debate. It would truly be a community debate in that way. If we pass the amendment, we can have the rational, equitable discussion that I believe this issue does deserve without changing our laws as they stand now. Thank you.

Rep. Mock: Thank you, Mr. Speaker. I rise in opposition to amendment 1410h. I rise against this amendment because this amendment eviscerates what you just did. This eliminates the entire substance of the bill you just voted on and leaves in place, only, only, the study commission. So I ask you to vote against this amendment because we just voted opposite this amendment, except for the study committee. So, please vote against the amendment. Thank you.

Rep. Marjorie Smith: I'm really confused, I sat in my seat for the entire debate and I heard you say very specifically, there was no substance in the bill, the issue was to give us time to work through all of these complicated questions, and you wanted to work them through in a commission. So, I don't understand what you're referring to when you talking about "the substantive piece" of the bill and I wonder if you could now tell us what the substance is as against what you had previously said it was. Thank you.

Rep. Mock: I'm not quite sure what you heard but let me say it one more time. What was just voted by this House was this: that the state of New Hampshire would not recognize civil unions, gay marriages from any other state. That is what we just voted on. This amendment that we are now voting on begins by saying "amend the bill by replacing all after the enactment clause with the following: Commission established ..." So the substantive part of the bill we just passed is eliminated by this amendment. And this amendment is a study only.

(Floor Amendment (1410h) failed – roll call vote)

### Debate on Floor Amendment (1430h)

Rep. Letourneau: (offered floor amendment 1430h) Thank you, Mr. Speaker, I thank you for your patience, I know it's been a long, hard day. I thank you members also, it has been a very difficult day. I'd like to offer amendment 1430h. This amendment simply says for the purposes of New Hampshire law the word "marriage" means only a legal union between one man and one woman as husband and wife. It puts it into the definitions sections. There are several reasons that we need to do this to comply with what we just passed. This was in the original bill as it came over from the Senate and it was removed. It brings New Hampshire law into conformity with federal law, the federal Defense of Marriage Act. United States code says that for the purpose of federal law the word "marriage" means only a legal union between one man and one woman as husband and wife. This amendment is needed to prevent conflict between Massachusetts law and New Hampshire law. Further, the Massachusetts Attorney General has said that Massachusetts will not issue marriage licenses to same-sex couples who are residents of other states as long as other states define marriage as this amendment does. That's why this is important. In a March 31, 2004 Associated Press story, Massachusetts Attorney General Thomas Riley said, "When gay matrimony becomes legal in Massachusetts, it will apply only to Massachusetts residents and not couples who live in states where the law expressly defines marriage as a union between a man and a woman." Right now, New Hampshire law does not expressly define marriage as a union between a man and a woman. In light of Attorney General Riley's interpretation of Massachusetts law, without the passage of this particular amendment in New Hampshire, Massachusetts would issue marriage licenses next month to same-sex couples who live in New Hampshire. New Hampshire law says that the state will not recognize a marriage between two residents if the couple is married in another state and the marriage would not be lawful if conducted in New Hampshire. That's RSA 457:43. Without this amendment we would see same-sex couples from New Hampshire receiving marriages licensed from the Commonwealth of Massachusetts for the marriages New Hampshire would not recognize. This conflict can be eliminated by the adoption of this amendment. All it does it put it into definitions. Thank you, very much.

Rep. Haytayan: Thank you, Mr. Speaker. This is the first I've seen of this. My understanding of what we passed, we passed the Judiciary Committee amendment, is that substantively it does the



same thing. There is no need for further language. If you pass the Judiciary Committee amendment, substantively what you have done is, you have said that there are certain rules in New Hampshire under which we operate. Those rules apply to those people married in New Hampshire or those people married elsewhere who move to New Hampshire. One of the categories in Section 1 of RSA 457, and Section 2 of RSA 457 is that there are categories of relationships where marriages are not recognized. If you read the section, it will say "...marriage between a woman and her mother, her sister," there's all sorts of categories and one of the categories is another woman; and if you go to Section 2 it says marriages between a man, and it would say his brother or his father, and all sorts of other categories, and one of them is another man are not recognized. So, substantively, it's basically the same, so there's really no need for this language. I don't want to take issue with the representative but I think we did a careful analysis of the statute and a careful analysis of what language we needed in order to move this thing forward, and I would ask you to vote with the committee on this. This bill does not need further amendment. Thank you.

(Floor Amendment (1430h) failed – division vote)

### Debate on SB 427 as Amended

Rep. Daniels: Thank you, Mr. Speaker, I promise to adhere to the three minute rule. For those people who have not made up their minds yet, I would like you to give me the liberty of two minutes just to listen for two minutes, please. You know I am amazed that the politics has overridden the decency that we should be treating each other as human beings. We have this original bill that was sent to us from the Senate, it gets an amendment put on it by the Judiciary Committee, two, three, four amendments floating around here today, all this contention, people up back talking, getting mad at each other, this and that, so much so that politics has completely taken over this entire issue. But have you noticed the tenor of today?

The amendments that were brought forward all either want to deny or delay the original bill. So that tells me there are a lot of people in this House that are not comfortable with this bill in any form, with the amendment or not.

We are all here to serve the people of New Hampshire the best way we know how. I have been and I will continue to be called upon to make some very difficult decisions. In this country today, things that are going on, we have young men and women that are coming back in body bags and we're sitting here for six hours talking about this issue. We pick an issue that's going to tear us apart rather than bring us together when we should be sticking together. There's a great many hardworking, taxpaying citizens that we would be doing a disservice to if we pass this bill. As a representative of the people, I ask myself, "Would we be doing a disservice to people if we do not pass this bill?" The answer is no. We may not get an agenda going. We may not make some people happy that are proponents of this bill but we would not be doing a disservice to them. I can't help but think after the time, energy and expense that was spent by the proponents of this bill, on this particular bill, on doing other things like, I've been working almost two years on the Developmentally Disabled Wait List with a few other reps. I guarantee if the wisdom and the knowledge of the people on that side would have helped us with that, we wouldn't have a Developmentally Disabled Wait List. But they picked this issue as a priority which lets us know where some people's priorities are. We should all ask ourselves, of all the gay and lesbian people that we know, and we do know a lot, are they an asset to the community? They're our firemen, our policemen, our lawyers, our funeral directors, indeed, they're our legislators. They are an asset to the community. Instead, we have institutions out there that have an opinion which is driven by an agenda, and if I'm being honest, I have an opinion that's driven by an agenda as well. Life, liberty and the pursuit of happiness. Everybody brought up Martin Luther King today, I might as well too, and I'll end with this quote. He said, "We can choose to either walk the high road of human brotherhood, or tread the low road of man's inhumanity to man." And that's the choice you're making today when you cast your vote. What road do you want to go down? Everybody here is empowered to vote and I ask my fellow legislators, please, for the sake of decency, let this go down in flames. Because when all is said and done, like my father used to tell me, at the end of the day all we have left is each other. Thank you, Mr. Speaker.

(Motion to Lay on Table failed – roll call vote)

Rep. Soltani: This is my workout for the day, Mr. Speaker, and I hear that my next seat will be in the smoking room, so I'll get closer to the podium. Mr. Speaker, there is really nothing else to be

said other than the bill is a thoughtful one. The Judiciary Committee deliberated for days, arrived at the best conclusion that it could and I urge the members to vote for it. Thank you.

(Ought to Pass as Amended adopted – roll call vote)

The House recessed at 2:10 p.m.

## RECESS

### (Speaker Chandler in the Chair)

The House reconvened at 2:50 p.m.

## ENROLLED BILL AMENDMENTS

**SB 369**, relative to examinations of insurance companies by the insurance department. (Amendment printed SJ 04/29/04)

Adopted.

**SB 388-FN**, relative to proof of successful completion of an impaired driver intervention program. (Amendment printed SJ 04/29/04)

Adopted.

## SENATE MESSAGE

### REQUEST CONCURRENCE WITH AMENDMENT

**HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. (Amendment printed SJ 04/22/04)

Rep. Patten moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Brundige, Gillick, Gould and Mary Cooney.

## WITHOUT OBJECTION

Without objection, the Speaker moved the following two bills out of their regular order to this point in the Regular Calendar.

## REGULAR CALENDAR (CONT'D.)

**SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies. **OUGHT TO PASS WITH AMENDMENT**

Rep. Michael D. Harrington for Science, Technology and Energy: This bill, as amended, addresses three issues relating to the Public Utilities Commission (PUC). First, it allows the PUC to assess a late penalty fee for payments not received within 30 days within receipt of the original bill. This fee is similar to all late fees charged in conjunction with payments not received within the established grace period. Second, it corrects an oversight from previous deregulation legislation. It removes facilities exempted from public utility regulation from having to comply with general or facility specific safety and reliability standards established by the commission. These facilities are no longer regulated by the PUC and therefore these standards are no longer germane. Thirdly, it brings New Hampshire law into compliance with federal rules regarding gas pipeline safety. It allows the fines for violation of the Natural Gas Pipeline Safety Act to match those found in the federal regulations. This allows the maximum daily fine per violation to go from \$10,000 to \$100,000 and the maximum total fine to go from \$500,000 to \$1,000,000. This however, only applies when the violation is knowing or willful. In all other cases the maximum fines remain at the present level. Additionally, language is included to ensure that the degree of culpability of the person, the history of prior violations, the effect of the penalty on the person and any other identifiable factors related to the circumstances of the person and the nature and circumstances of the violation, shall be considered when determining the amount of any fine. Failure to bring New Hampshire law into compliance with the federal regulations will most likely result in a loss of approximately \$18,000 per year in federal funding to the PUC. The committee also considered a late Senate amendment that would allow the PUC to assess electric utilities for attorneys and expert witness fees associated with regional intervention proceedings as deemed necessary by the commission. The committee rejected this amendment. We feel that the commission should instead adjust its workload and priorities as we move forward with electric deregulation and also modify its telephone oversight as we advance with the newly emerging and highly competitive telephone industries. Vote 10-1.

**Amendment (1245h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to payment of utility assessments, relative to regulation of electric generation companies, and relative to violations of gas pipeline and liquefied petroleum gas system regulation.

Amend the bill by replacing all after section 2 with the following:

3 Gas Pipeline Regulation; Liquefied Petroleum Gas Systems Added; Violations. Amend RSA 374:7-a to read as follows:

374:7-a Violation.

I. Any person who *knowingly or willfully* violates any provision of RSA 370:2 or any standards or rules adopted under it by the public utilities commission, relative to gas pipelines *and liquefied petroleum gas systems pursuant to the Natural Gas Pipeline Safety Act*, shall be subject to a civil penalty of not exceeding [~~\$10,000~~] **\$100,000** for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed [~~\$500,000~~] **\$1,000,000** for any related series of violations.

II. *Any person who otherwise violates any provision of RSA 370:2 or any standards or rules adopted under it by the public utilities commission, relative to gas pipelines and liquefied petroleum gas systems pursuant to the Natural Gas Pipeline Safety Act, shall be subject to a civil penalty of not exceeding \$10,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$500,000 for any related series of violations.*

III. Any civil penalty assessed under [~~paragraph I~~] *this section* may be compromised by the public utilities commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, [~~and~~] the good faith of the person charged in attempting to achieve compliance, after notification of a violation, *the degree of culpability of the person, the history of prior violations, the effect of the penalty on the person, and any other identifiable factor related to the circumstances of the person and the nature and circumstances of the violation*, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the state courts.

4 Effective Date. This act shall take effect January 1, 2005.

**AMENDED ANALYSIS**

This bill authorizes the public utilities commission to charge a late penalty fee to a utility that does not timely pay its assessment for expenses of the commission. This bill clarifies the scope of the exemption for certain electric generation companies from regulation as public utilities.

This bill also increases penalties for violations of the regulation of gas pipelines and liquefied natural gas systems.

Adopted.

Report adopted and ordered to third reading.

**SB 397**, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program. **OUGHT TO PASS WITH AMENDMENT**

Rep. Roy D. Maxfield for Science, Technology and Energy: This bill, as amended, strengthens our position to opt out of MtBE additives in gasoline by directing the Department of Environmental Services (DES) to adopt consumer product rules relating to air quality and then seek federal approval through revisions in the state implementation plan to opt out of the Reformulated Gasoline Program (RFG). In the late 1980's gasoline refiners developed reformulated gasoline containing MtBE in response to worsening air quality related to auto emissions. The Federal Clean Air Act Amendments of 1990 established performance standards for RFG and required the Environmental Protection Agency (EPA) to mandate its use in certain metropolitan areas. The EPA developed rules governing its use and allowing certain areas to voluntarily opt into the RFG program. Any area classified as marginal, moderate, or serious non-attainment areas by the EPA could opt into the program as part of a State Implementation Plan. New Hampshire opted into the RFG program via a letter from Governor Gregg in 1991. RFG use commenced in four non-attainment counties (Merrimack, Hillsborough, Rockingham and Strafford) of New Hampshire in 1995. This was done in part to avoid tailpipe testing for motor vehicles in the state. Soon thereafter, first-time detection of MtBE contamination in public and private drinking water supplies in these counties increased

dramatically. EPA's regulations also required that, after 1998, states that opted-in to the RFG program could not opt-out until 2004. HB 758 passed in 2001 authorized DES to request an opt-out of RFG on 1-1-04. This request has received favorable recommendations by the regional EPA office and is currently being evaluated in Washington. Senate sponsors and the Science, Technology and Energy Committee felt that this legislation, which addresses specific clean air enhancements to the state SIP, will be looked on favorably by the EPA and allow them to make a positive decision for New Hampshire. Vote 11-0.

### Amendment (1292h)

Amend the title of the bill by replacing it with the following:

AN ACT requiring the department of environmental services to adopt certain rules and to eliminate certain substances from gasoline supplies.

Amend the bill by replacing all after the enacting clause with the following:

#### 1 Consumer Product Rules Relative to Air Quality.

I. The department of environmental services shall commence rulemaking under the authority of RSA 125-C:4, I(n), RSA 125-C:6, XVII, and RSA 485:16-c based upon model rules of the Ozone Transport Commission (OTC) relative to the manufacture, use, or sale of consumer products, as defined in RSA 125-C:2, V-c.

II. Upon adoption of the consumer products rules, the department shall seek federal approval through revision of the state implementation plan to opt out of the federal reformulated gasoline program or to substitute the consumer products rules for the state's oxygen flexible reformulated gasoline rule, Env-A 1611.

III. The department of environmental services shall give the highest priority to accomplishing the provisions of this section.

2 Rulemaking Authority; Test Methods Incorporated by Reference. Amend RSA 125-C:4 by inserting after paragraph I-a the following new paragraph:

I-b. In adopting rules under subparagraph I(n), the department may incorporate by reference other state test methods and procedures that are referenced in the model rules of the Ozone Transport Commission (OTC) concerning consumer products, as defined in RSA 125-C:2, V-c.

3 Chapter Title Amended. Amend the title of RSA 146-G to read as follows:

#### CHAPTER 146-G

#### GASOLINE REMEDIATION AND ELIMINATION OF ETHERS [FUND]

4 New Subdivision; Elimination of Certain Substances From Gasoline Supplies. Amend RSA 146-G by inserting after section 11 the following new subdivision:

#### Elimination of Gasoline Ethers and TBA From Gasoline Supplies

146-G:12 Elimination of Gasoline Ethers and TBA from Gasoline Supplies. No person, as defined in RSA 146-A:2, VI, shall sell, deliver for sale, import, or cause to be imported into the state for sale any neat gasoline ethers or gasoline containing MTBE, other gasoline ethers, or tertiary butyl alcohol (TBA) in quantities greater than 1/2 of one percent by volume. Nothing in this subdivision shall be interpreted to prohibit the transshipment of MTBE, other gasoline ethers, or TBA content fuel through the state for disposition outside of the state including storage coincident to such shipment.

146-G:13 Penalties. Any person who violates RSA 146-G:12 shall be subject to administrative fines not to exceed \$2,000 for each violation issued by the department of environmental services and civil penalties not to exceed \$60,000 for each violation. Each day of a continuing violation shall constitute a separate violation. In addition to civil penalties, the attorney general may institute such legal or equitable action as he or she deems necessary, including an action for injunctive relief.

5 Adoption of Other Air Pollution Control Measures. Amend RSA 485:16-c to read as follows:

485:16-c Adoption of Other Air Pollution Control Measures. In order ~~to fulfill federal air pollutant emission reduction obligations that may be created by opting out of the federal reformulated gasoline program under RSA 485:16-b or by implementing an alternative regional or federal approach under RSA 485:16-d,~~ *to reduce air emissions and receive federal credit for such reductions*, the commissioner shall be authorized to establish limits on the manufacture, use, or sale of consumer products in accordance with RSA 125-C: 6, XVII.

6 Construction. Nothing in this act shall abrogate, limit, or restrict any right to recover damages or other legal, equitable, or administrative relief under any theory of liability that the state or any other entity or person may have under federal or state statutes or common law with respect to methyl tertiary-butyl ether.

7 Reports. The department of environmental services shall report by November 1 of each year to the house Science, Technology and Energy Committee, the senate Environment Committee, and the air pollution advisory committee on the status of accomplishing the requirements of this act and the need for any additional legislation. The annual reports shall continue until November 1, 2008.

8 Repeal. Env-A 1611, relative to the state's oxygen flexible reformulated gasoline rule, is repealed.

9 Contingency.

I. Section 4 of this act shall take effect on the later of January 1, 2007 or 6 months after federal approval has been received under paragraph II of section 1 of this act, as certified by the commissioner of the department of environmental services to the director of the office of legislative services.

II. Section 8 of this act shall take effect on the date that the commissioner of environmental services notifies the director of the office of legislative services that federal approval has been received under paragraph II of section 1 of this act.

10 Effective Date.

I. Sections 4 and 8 of this act shall take effect as provided in section 9.

II. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill requires the department of environmental services to adopt certain rules relative to consumer products and to eliminate certain substances from gasoline supplies.  
Adopted.

Report adopted and ordered to third reading.

### REGULAR CALENDAR (CONT'D.)

**SB 335**, relative to access to birth records. **MAJORITY: OUGHT TO PASS. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Thomas I. Arnold, Jr. for the Majority of Children and Family Law: This bill is modeled after an Oregon law enacted in 2000. It allows any adult adoptee to obtain a copy of their original birth certificate in the same manner as all other non-adopted adults. Oregon and Alabama have passed similar laws while in Alaska and Kansas certificates have always been available. The committee heard hours of testimony and a majority came to the decision that it was time to re-open access to birth certificates to all adults, regardless of the circumstances of their birth. The committee also received many e-mails from birth mothers who were in favor of this bill. Many birth mothers testified that the contact preference form within this bill would give them a voice where they never had one before. Vote 9-3.

Rep. Karen McRae for the Minority of Children and Family Law: This bill gives adult adoptees access to their original birth certificates without regard to the wishes or expectations of anonymity of the birth parents. Society has changed its judgment of unwed mothers and illegitimate children, but for most of the twentieth century there was a stigma attached to these mothers and the children given up for adoption; hence, the assurance that the identifying information regarding these births would remain closed, sealed and private. SB 335 would have the state of New Hampshire break faith with all those birth parents who gave up their children for adoption, with the understanding of anonymity. This bill attempts to rectify a perceived inequity by perpetrating a further inequity. Reps. McRae, Phyllis Woods, and Nancy Johnson spoke against.

Reps. Arnold, Irene Pratt and Janet Allen spoke in favor.

Rep. Janet Allen requested a roll call; sufficiently seconded.

The question being adoption of the majority committee report.

**YEAS 223 NAYS 103**

**YEAS 223**

**BELKNAP**

Allen, Janet  
Pilliod, James

Clark, Charles  
Russell, David

Fitzgerald, James  
Thomas, John

Nedeau, Stephen  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Merrrow, Harry  
Philbrick, Donald

Brown, Carolyn  
Mock, Henry  
Stevens, Stanley

Hatch, Paul  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Liebl, George	Meader, David	Mitchell, McKim
Parkhurst, Henry	Pratt, Irene	Pratt, John	Richardson, Barbara
Robertson, Timothy	Royce, H Charles	Smith, Edwin	Tilton, Anna
Webber, Amy	Weed, Charles		

**COOS**

Guay, Lawrence	Mears, Edgar	Poulin, Richard	Pratt, Leighton
Richardson, Herbert	Stohl, Eric	Tholl, John Jr	Woodward, David

**GRAFTON**

Akins, Ralph	Alger, John	Almy, Susan	Barker, Robert
Benn, Bernard	Bleyler, Ruth	Cooney, Mary	Densmore, Edward
Diamond, Estelle	Dorsett, Andrew	Dudley, Terri	Gilman, G Michael
Hammond, Lee	Ingbretson, Paul	Naro, Debra	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Baroody, Benjamin	Brassard, Paul	Buckley, Raymond
Buhlman, David	Carter, Jeffrey	Carter, Mark	Cernota, Albert
Chabot, Robert	Christiansen, Lars	Clemons, Jane	Cote, David
Cote, Peter	Coughlin, Pamela	Craig, James	Crane, Elenore Casey
Desmarais, Vivian	Dionne, Kimberley	Drisko, Richard	Elliott, Larry
Gorman, Mary	Hall, Charles	Holden, Randolph	Irwin, Anne-Marie
Jean, Claudette	Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline
L'Heureux, Robert	LaFlamme, Paul	Lasky, Bette	Leach, Edward
Luebker, Bernard	Malloy, Chris	McElroy, Henry Jr	McHugh, Claire
Messier, Irene	Michon, Stephen	Mosher, William	Movsesian, Lori
O'Brien, Lori	Pappas, Christopher	Pilotte, Maurice	Price, Pamela
Ross, Lawrence	Schulze, Joan	Shaw, Barbara	Sullivan, Peter

**MERRIMACK**

Blanchard, Elizabeth	Brueggemann, Donald	Daniels, Eric	Davis, Frank
DeJoie, John	Field, William	Foley, Albert	French, Barbara
Gile, Mary	Hamm, Christine	Hess, David	Jacobson, Alf
Kenison, Leon	Kennedy, Richard	Lockwood, Priscilla	MacKay, James
Maxfield, Roy	McCormick, Tom	Nutter, Edward	Oliver, James
Osborne, Jessie	Owen, Derek	Perkins, Randy	Potter, Frances
Reed, Dennis	Rodd, Beth	Rush, Deanna	Seldin, Gloria

**ROCKINGHAM**

Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bicknell, Elbert
Bishop, Franklin	Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet
Carson, Sharon	Coes, Betsy	Cooney, Richard	DiFruscia, Anthony
Dowd, John	Dumaine, Dudley	Flanders, John Sr	Gleason, John
Gould, Kenneth	Griffin, Mary	Hamel, Albert	Holland, James Jr
Hutchinson, Karen	Ingram, Russell	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Kelley, Jane	Kobel, Rudolph	Langley, Jane
Langone, John	Manning, John	McEachern, Paul	McMahon, Charles
Norelli, Terie	Noyes, Richard	Pantelakos, Laura	Pitts, Jacqueline
Putnam, Ed II	Robertson, Carl	Ruffner, Walter	Scamman, Stella
Shultis, Elizabeth	Smith, Donald	Splaine, James	Stone, Joseph
Varrell, Thomas	Weare, E Albert	Welch, David	Weldy, Norman Jr
Wiley, Robert	Winchell, George	Zolla, William	

**STRAFFORD**

Berube, Roger  
Creteau, Irene  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Wall, Janet

Bickford, David  
Easson, Timothy  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie

Campbell, W Packy  
Harrington, Michael  
Knowles, William  
Rollo, Deanna  
Snyder, Clair

Cataldo, Sam  
Hofemann, Roland  
Miller, Joseph  
Rous, Emma  
Spang, Judith

**SULLIVAN**

Allison, David  
Flint, Gordon Sr

Burling, Peter  
Franklin, Peter

Cloutier, John  
Jones, Constance

Donovan, Thomas  
Phinizy, James

**NAYS 103****BELKNAP**

Ahern, Omer Jr  
Lawton, David

Bartlett, Gordon  
Rice, Thomas

Flanders, Donald  
Wendelboe, Fran

Holbrook, Robert

**CARROLL**

Derby, Mark

Dickinson, Howard

McConkey, Mark

**CHESHIRE**

Dexter, Judson

Hunt, John

Laurent, John

Manning, Joseph

**COOS**

Brady, Mark

King, Frederick

**GRAFTON**

Giuda, Robert

Maybeck, Margie

Sorg, Gregory

Williams, Burton

**HILLSBOROUGH**

Balboni, Michael  
Brundige, Robert  
Fields, Dennis  
Gibson, John  
Hagan, Barbara  
Hawkins, Ken  
Jasper, Shawn  
Mooney, Maureen  
Scanlon, Michael  
Tate, Joan

Barry, J Gail  
Bruno, Pierre  
Fletcher, Richard  
Gonzalez, Carlos  
Hallyburton, Margaret  
Hinkle, Peyton  
Kurk, Neal  
Moran, Edward  
Slocum, Lee  
Vaillancourt, Steve

Batula, Peter  
Christensen, D L Chris  
Ford, Nancy  
Goyette, Peter Jr  
Hansen, Ryan  
Hopper, Gary  
McRae, Karen  
Pepino, Leo  
Souza, Kathleen  
Wheeler, James

Bergeron, Jean-Guy  
Emerton, Larry  
Gargas, Carolyn  
Graham, John  
Harrington, Paul  
Hunter, Bruce  
Mercer, Robert  
Rowe, Robert  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
Fraser, Leo Jr  
Soltani, Tony

Bouchard, Candace  
Langer, Ray  
Wallner, Mary Jane

Clarke, Claire  
Leber, William

Dunne, Christopher  
Marple, Richard

**ROCKINGHAM**

Camm, Kevin  
Fesh, Bob  
Gillick, Thomas  
Katsakiores, Phyllis  
Priestley, Anne  
Tufts, J Arthur

Corbin, Corey  
Francoeur, Sheila  
Headd, James  
Letourneau, Robert  
Quandt, Matthew  
Waterhouse, Kevin

Dodge, Robert  
Gilbert, Jeffrey  
Hughes, Daniel  
McKinney, Betsy  
Rausch, James

Doyle, Christopher  
Gilbert, Karl  
Itse, Daniel  
O'Neil, Michael  
Roessner, Kurt

**STRAFFORD**

Bemis, Alan  
Johnson, Nancy  
Woods, Phyllis

Brown, Julie  
Scott, David

Dunlap, Patricia  
Taylor, Kathleen

Hollinger, Jeffrey  
Twombly, James

**SULLIVAN**

Ferland, Brenda                      Leone, Richard                      Rodeschin, Beverly  
and the majority committee report was adopted.  
Ordered to third reading.

**SB 454-FN, relative to carrying a concealed weapon without a license. MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. George D. Winchell for the Majority of Criminal Justice and Public Safety: This bill would repeal RSA 159:4 which requires a license to carry a loaded pistol or revolver in any vehicle or concealed upon any person in this state. There was testimony by those supporting this bill that by doing away with the license to carry, more law-abiding citizens would carry concealed, thereby making New Hampshire a safer state to live in because the criminals would not know who would be carrying a weapon. We were reminded numerous times that the United States and New Hampshire Constitutions guarantee its citizens the right to bear arms. We know that New Hampshire was recently rated the safest state in which to live. Further, applying for a license to carry concealed, which we now have, in no way infringes on anyone's right to "bear arms". There are currently only two states that do not require such license, Vermont and Alaska. The committee received a letter from the Vermont Chiefs of Police, urging us not to repeal our law, stating they would support a concealed weapons law in that state if one were introduced. The NH Chiefs of Police also is in strong opposition to this bill. The state added \$136,620 to the general fund in 2003 as a result of issuing out- of-state concealed carry licenses which would be lost with the passage of this bill. This revenue currently pays for all application and license forms which are distributed at no cost to the local issuing authorities. Vote 16-3.

Rep. Elbert I. Bicknell for the Minority of Criminal Justice and Public Safety: SB 454 as introduced, if enacted into law today would change nothing. It is a fact today that in New Hampshire one may carry a firearm openly upon his person. This bill only puts the citizens of New Hampshire back in line with our NH Constitution Part One Art 2-a and the U.S. Constitution, the 2<sup>nd</sup> Amendment of our Bill of Rights. The possession and the purchase of firearms is strictly controlled by the U.S. Code. The criminal is prohibited from buying or possessing a firearm, and passage of this bill would give the criminal nothing. The citizen of New Hampshire is the only benefactor of this bill. Police by their very nature, and limited manpower, are re-active not pro-active to crimes of violence. The best and in most cases the only deterrent to a crime of violence is the armed citizen. In fact, it takes place 2 million times a year, according to statistics. Some would attempt to categorize the ordinary citizens as incompetent to deal with the responsibility for carrying a concealed weapon. Some even indicate by their discourse on this subject that (1) the police will protect us and (2) government (police) know best who can and should exercise our constitutional rights. But, we all know the police cannot be in all places at all times and to quote President George Washington, "It will be found unjust and unwise to deprive a man of his natural liberty upon the supposition that he may abuse it." The amendment would provide that the bill would only apply to New Hampshire residents.

Reps. Itse, Kennedy and Bicknell spoke against.  
Reps. Stevens, Peter Allen and Winchell spoke in favor.  
Rep. Bicknell requested a roll call; sufficiently seconded.  
The question being adoption of the majority committee report.

**YEAS 223 NAYS 94**

**YEAS 223  
BELKNAP**

Bartlett, Gordon	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Nedeau, Stephen	Pilliod, James	Russell, David	Whalley, Michael

**CARROLL**

Babson, David Jr	Hatch, Paul	Mock, Henry	Olimpio, J Lisbeth
Stevens, Stanley			

**CHESHIRE**

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espeies, Peter	Fish, Douglas	Liebl, George	Manning, Joseph



Meador, David  
Pratt, John  
Smith, Edwin

Mitchell, McKim  
Richardson, Barbara  
Tilton, Anna

Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Pratt, Irene  
Royce, H Charles

### COOS

King, Frederick  
Woodward, David

Mears, Edgar

Poulin, Richard

Richardson, Herbert

### GRAFTON

Akins, Ralph  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Almy, Susan  
Densmore, Edward  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon  
Williams, Burton

Bleyler, Ruth  
Dudley, Terri  
Scovner, Nancy

### HILLSBOROUGH

Allan, Nelson  
Buckley, Raymond  
Chabot, Robert  
Coughlin, Pamela  
Emerton, Larry  
Gargasz, Carolyn  
Hall, Charles  
Hunter, Bruce  
Johnson, Lionel  
L'Heureux, Robert  
Malloy, Chris  
Mosher, William  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Peter

Baroody, Benjamin  
Cail, Kenneth  
Christensen, D L Chris  
Craig, James  
Fields, Dennis  
Gonzalez, Carlos  
Hallyburton, Margaret  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
LaFlamme, Paul  
Mercer, Robert  
Movsesian, Lori  
Price, Pamela  
Schulze, Joan  
Tate, Joan

Barry, J Gail  
Carter, Mark  
Cote, David  
Drisko, Richard  
Fletcher, Richard  
Gorman, Mary  
Hawkins, Ken  
Jasper, Shawn  
Kopka, Angeline  
Lasky, Bette  
Messier, Irene  
O'Brien, Lori  
Ross, Lawrence  
Shaw, Barbara  
Vaillancourt, Steve

Brassard, Paul  
Cernota, Albert  
Cote, Peter  
Elliott, Larry  
Ford, Nancy  
Graham, John  
Holden, Randolph  
Jean, Claudette  
Kurk, Neal  
Leach, Edward  
Michon, Stephen  
Pappas, Christopher  
Rowe, Robert  
Sullivan, Francis  
Wheeler, Robert

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
Dunne, Christopher  
Gile, Mary  
Kenison, Leon  
McCormick, Tom  
Potter, Frances  
Seldin, Gloria

Blanchard, Elizabeth  
Daniels, Eric  
Field, William  
Hamm, Christine  
Leber, William  
Oliver, James  
Reed, Dennis  
Wallner, Mary Jane

Bouchard, Candace  
Davis, Frank  
Fraser, Leo Jr  
Hess, David  
Lockwood, Priscilla  
Osborne, Jessie  
Rodd, Beth

Brueggemann, Donald  
DeJoie, John  
French, Barbara  
Jacobson, Alf  
MacKay, James  
Perkins, Randy  
Rush, Deanna

### ROCKINGHAM

Abbott, Dennis  
Cooney, Richard  
Dowd, John  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Kelley, Jane  
Manning, John  
Norelli, Terie  
Pitts, Jacqueline  
Robertson, Carl  
Splaine, James  
Weare, E Albert

Blanchard, MaryAnn  
Corbin, Corey  
Doyle, Christopher  
Gilbert, Jeffrey  
Gould, Kenneth  
Hughes, Daniel  
Kobel, Rudolph  
McEachern, Paul  
Noyes, Richard  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Wiley, Robert

Bridle, Russell  
DiFruscia, Anthony  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Langley, Jane  
McKinney, Betsy  
O'Neil, Michael  
Putnam, Ed II  
Scamman, Stella  
Tufts, J Arthur  
Winchell, George

Coes, Betsy  
Dodge, Robert  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Johnson, Robert  
Langone, John  
McMahon, Charles  
Pantelakos, Laura  
Rausch, James  
Shultis, Elizabeth  
Waterhouse, Kevin  
Zolla, William

### STRAFFORD

Bemis, Alan  
Dunlap, Patricia

Berube, Roger  
Hofemann, Roland

Brown, Julie  
Johnson, Nancy

Creteau, Irene  
Kaen, Naida

Keans, Sandra  
Rollo, Deanna  
Snyder, Clair

Knowles, William  
Rous, Emma  
Spang, Judith

Miller, Joseph  
Schmidt, Peter  
Wall, Janet

Pelletier, Arthur  
Smith, Marjorie

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Rodeschin, Beverly

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

### NAYS 94

### BELKNAP

Ahern, Omer Jr  
Rice, Thomas

Allen, Janet  
Wendelboe, Fran

Clark, Charles

Lawton, David

### CARROLL

Brown, Carolyn  
McConkey, Mark

Derby, Mark  
Merrow, Harry

Dickinson, Howard  
Patten, Betsey

Kenney, Bettie  
Philbrick, Donald

### CHESHIRE

Hunt, John

Laurent, John

### COOS

Brady, Mark

Guay, Lawrence

Pratt, Leighton

Stohl, Eric

### GRAFTON

Alger, John  
Giuda, Robert

Barker, Robert  
Ingbreton, Paul

Dorsett, Andrew  
Maybeck, Margie

Gilman, G Michael  
Sorg, Gregory

### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Bruno, Pierre  
Crane, Elenore Casey  
Harrington, Paul  
McElroy, Henry Jr  
Pepino, Leo  
Tahir, Saghir

Allen, Timothy  
Batula, Peter  
Buhlman, David  
Desmarais, Vivian  
Hinkle, Peyton  
McHugh, Claire  
Slocum, Lee  
Wheeler, James

Arnold, Thomas Jr  
Bergeron, Jean-Guy  
Carter, Jeffrey  
Hagan, Barbara  
Hopper, Gary  
McRae, Karen  
Souza, Kathleen

Artz, Lawrence  
Brundige, Robert  
Christiansen, Lars  
Hansen, Ryan  
Luebker, Bernard  
Mooney, Maureen  
Sweeney, Cynthia

### MERRIMACK

Currier, David  
Nutter, Edward

Foley, Albert  
Soltani, Tony

Kennedy, Richard

Marple, Richard

### ROCKINGHAM

Allen, Mary  
Cady, Harriet  
Holland, James Jr  
Katsakiores, Phyllis  
Varrell, Thomas

Belanger, Ronald  
Camm, Kevin  
Hutchinson, Karen  
Letourneau, Robert  
Welch, David

Bicknell, Elbert  
Carson, Sharon  
Itse, Daniel  
Quandt, Matthew  
Weldy, Norman Jr

Bishop, Franklin  
Dumaine, Dudley  
Katsakiores, George  
Smith, Donald

### STRAFFORD

Bickford, David  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Hollinger, Jeffrey  
Woods, Phyllis

Cataldo, Sam  
Scott, David

Easson, Timothy  
Taylor, Kathleen

### SULLIVAN

Phiniza, James  
and the majority committee report was adopted.

**SPECIAL ORDER**

Rep. McKinney moved that **SB 487**, relative to lead sinkers, be made a Special Order for May 5, 2004 at its regular place in the Regular Calendar.  
Adopted.

**REGULAR CALENDAR (CONT'D.)**

**SB 316**, relative to the payment of salaried employees. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Jarvis M. Adams for Labor, Industrial and Rehabilitative Services: This bill allows an employer to prorate the salary of an employee who is terminated to withhold certain items from an employer's wage when the employee requests the withholding in writing. This amendment is a common-sense solution with a broad base of support. Vote 14-3.

**Amendment (1343h)**

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Withholding of Wages; Employee Authorized Deductions. Amend RSA 275:48, 1 to read as follows:

1. No employer may withhold or divert any portion of an employee's wages unless:

(a) The employer is required or empowered to do so by state or federal law[~~or~~].

(b) The employer has a written authorization by the employee for deductions for a lawful purpose accruing to the benefit of the employee as provided in regulations issued by the commissioner[;] *or as provided in subparagraph (d).*

(c) The deductions are pursuant to any rules or regulations for medical, surgical, or hospital care or service, without financial benefit to the employer and openly, clearly, and in due course recorded in the employer's books.

*(d) Upon an employee's written request, an employer may deduct the following items from the employee's wages provided that the employer shall provide a written itemized accounting of such requested deductions to the employee at least once per month:*

*(1) Voluntary contributions into cafeteria plans or flexible benefit plans, or both, as authorized by section 125 or section 132 of the Internal Revenue Code.*

*(2) Voluntary payments by the employee for the following:*

*(A) Child care fees by a licensed child care provider.*

*(B) Parking fees.*

*(C) Pharmaceutical items, gift shop, and cafeteria items purchased on site of a hospital by hospital employees.*

**AMENDED ANALYSIS**

This bill allows an employer to prorate the salary of an employee who is terminated for cause. This bill also allows an employer to withhold certain items from an employee's wage when the employee requests the withholding in writing.

Adopted.

Report adopted and ordered to third reading.

**SB 390**, relative to liability of third person under workers' compensation. **WITHOUT RECOMMENDATION**

Rep. Hess moved Ought to Pass.

Rep. Bishop, DiFrancia spoke against.

Rep. Baroody spoke against and yielded to questions.

**(Rep. Whalley in the Chair)**

Reps. Slocum, Hunt and Guida spoke in favor.

**LAIID ON THE TABLE**

Rep. Holden moved that **SB 390**, relative to liability of third person under workers' compensation, be laid on the table.

On a division vote, 152 members having voted in the affirmative and 143 in the negative, the motion was adopted.

Rep. Pitts declared a conflict of interest and did not participate.

**(Speaker Chandler in the Chair)****REGULAR CALENDAR (CONT'D.)**

**SB 429**, relative to state and municipal contracting practices for public works. **REFER FOR INTERIM STUDY.**

Rep. John A. Graham for Public Works and Highways: The committee heard hours of testimony, both pro and con, on this bill. Additionally, the committee heard a lengthy executive session discussing the points raised during the testimony. During the discussion it was apparent that there were still many unanswered questions, such as the "federal fund", or whether the legislation would apply to county government. The majority of the committee felt that the most effective way to gather the necessary information to answer these unresolved questions is through Interim Study. Vote 15-4.

Rep. Bruno spoke against.

Rep. Graham spoke in favor.

Rep. Buhlmann requested a roll call; sufficiently seconded.

The question being adoption of the committee report.

**YEAS 224 NAYS 61****YEAS 224****BELKNAP**

Allen, Janet  
Nedeau, Stephen  
Whalley, Michael

Bartlett, Gordon  
Pilliod, James

Fitzgerald, James  
Rice, Thomas

Holbrook, Robert  
Russell, David

**CARROLL**

Babson, David Jr  
McConkey, Mark  
Patten, Betsey

Brown, Carolyn  
Merrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

Kenney, Bettie  
Olimpio, J Lisbeth

**CHESHIRE**

Dexter, Judson  
Fish, Douglas  
Meador, David  
Richardson, Barbara  
Tilton, Anna

Dunn, James  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Weed, Charles

Eaton, Daniel  
Liebl, George  
Parkhurst, Henry  
Royce, H Charles

Espiefs, Peter  
Manning, Joseph  
Pratt, Irene  
Smith, Edwin

**COOS**

Guay, Lawrence  
Richardson, Herbert

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Woodward, David

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Naro, Debra  
Solomon, Peter

Alger, John  
Bleyler, Ruth  
Giuda, Robert  
Nordgren, Sharon

Almy, Susan  
Cooney, Mary  
Hammond, Lee  
Scovner, Nancy

Barker, Robert  
Densmore, Edward  
Ingbretson, Paul  
Sokol, Hilda

**HILLSBOROUGH**

Arnold, Thomas Jr  
Brassard, Paul  
Chabot, Robert  
Cote, Peter  
Elliott, Larry  
Gonzalez, Carlos  
Irwin, Anne-Marie  
Katsiantonis, Thomas  
Lasky, Bette  
Messier, Irene

Artz, Lawrence  
Brundige, Robert  
Christensen, D L Chris  
Coughlin, Pamela  
Fields, Dennis  
Gorman, Mary  
Jasper, Shawn  
Kopka, Angeline  
Leach, Edward  
Michon, Stephen

Baroody, Benjamin  
Buckley, Raymond  
Christiansen, Lars  
Desmarais, Vivian  
Fletcher, Richard  
Graham, John  
Jean, Claudette  
Kurk, Neal  
Malloy, Chris  
Mosher, William

Batula, Peter  
Carter, Jeffrey  
Cote, David  
Drisko, Richard  
Gargas, Carolyn  
Hallyburton, Margaret  
Johnson, Lionel  
L'Heureux, Robert  
Mercer, Robert  
Movsesian, Lori

O'Brien, Lori  
Rowe, Robert  
Sullivan, Francis

Pappas, Christopher  
Scanlon, Michael  
Sullivan, Peter

Pilotte, Maurice  
Schulze, Joan  
Sweeney, Cynthia

Price, Pamela  
Shaw, Barbara  
Tahir, Saghir

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
Field, William  
Hamm, Christine  
Leber, William  
Osborne, Jessie  
Rush, Deanna

Blanchard, Elizabeth  
Currier, David  
Fraser, Leo Jr  
Hess, David  
Lockwood, Priscilla  
Perkins, Randy  
Seldin, Gloria

Bouchard, Candace  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
MacKay, James  
Potter, Frances  
Wallner, Mary Jane

Brueggemann, Donald  
DeJoie, John  
Gile, Mary  
Kenison, Leon  
McCormick, Tom  
Rodd, Beth

### ROCKINGHAM

Abbott, Dennis  
Bridle, Russell  
Dodge, Robert  
Francoeur, Sheila  
Gleason, John  
Headd, James  
Johnson, Rogers  
Langley, Jane  
McKinney, Betsy  
Pantelakos, Laura  
Quandt, Matthew  
Scamman, Stella  
Tufts, J Arthur  
Weldy, Norman Jr

Belanger, Ronald  
Carson, Sharon  
Doyle, Christopher  
Gilbert, Jeffrey  
Gould, Kenneth  
Holland, James Jr  
Katsakiores, George  
Langone, John  
McMahon, Charles  
Pitts, Jacqueline  
Rausch, James  
Shultis, Elizabeth  
Waterhouse, Kevin  
Wiley, Robert

Bishop, Franklin  
Coes, Betsy  
Fesh, Bob  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Katsakiores, Phyllis  
Letourneau, Robert  
Norelli, Terie  
Priestley, Anne  
Robertson, Carl  
Smith, Donald  
Weare, E Albert  
Winchell, George

Blanchard, MaryAnn  
Cooney, Richard  
Flanders, John Sr  
Gillick, Thomas  
Hamel, Albert  
Johnson, Robert  
Kobel, Rudolph  
McEachern, Paul  
O'Neil, Michael  
Putnam, Ed II  
Roessner, Kurt  
Splaine, James  
Welch, David  
Zolla, William

### STRAFFORD

Bemis, Alan  
Dunlap, Patricia  
Knowles, William  
Schmidt, Peter  
Wall, Janet

Berube, Roger  
Hofemann, Roland  
Pelletier, Arthur  
Smith, Marjorie

Cataldo, Sam  
Kaen, Naida  
Rollo, Deanna  
Snyder, Clair

Creteau, Irene  
Keans, Sandra  
Rous, Emma  
Spang, Judith

### SULLIVAN

Allison, David  
Flint, Gordon Sr  
Phinizy, James

Burling, Peter  
Franklin, Peter  
Rodeschin, Beverly

Cloutier, John  
Jones, Constance

Ferland, Brenda  
Leone, Richard

### NAYS 61

### BELKNAP

Ahern, Omer Jr

Clark, Charles

Wendelboe, Fran

### CARROLL

Derby, Mark

### CHESHIRE

None

### COOS

Brady, Mark

### GRAFTON

Dorsett, Andrew  
Sorg, Gregory

Dudley, Terri  
Williams, Burton

Gilman, G Michael

Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Bruno, Pierre  
Crane, Elenore Casey  
Hinkle, Peyton  
Luebker, Bernard  
Mooney, Maureen  
Wheeler, James

Balboni, Michael  
Buhlman, David  
Hagan, Barbara  
Holden, Randolph  
McElroy, Henry Jr  
Slocum, Lee

Barry, J Gail  
Carter, Mark  
Hall, Charles  
Hopper, Gary  
McHugh, Claire  
Souza, Kathleen

Bergeron, Jean-Guy  
Cernota, Albert  
Harrington, Paul  
LaFlamme, Paul  
McRae, Karen  
Vaillancourt, Steve

**MERRIMACK**

Foley, Albert  
Oliver, James

Kennedy, Richard  
Soltani, Tony

Marple, Richard

Nutter, Edward

**ROCKINGHAM**

Allen, Mary  
DiFruscia, Anthony  
Itse, Daniel

Bicknell, Elbert  
Dowd, John  
Manning, John

Cady, Harriet  
Dumaine, Dudley

Camm, Kevin  
Hughes, Daniel

**STRAFFORD**

Bickford, David  
Hollinger, Jeffrey

Brown, Julie  
Scott, David

Easson, Timothy  
Twombly, James

Harrington, Michael  
Woods, Phyllis

**SULLIVAN**

Donovan, Thomas  
and the committee report was adopted.

**BILLS REMOVED FROM CONSENT CALENDAR****MOTION TO SPECIAL ORDER**

Rep. McRae moved that **SB 520**, relative to modification of child support obligation, be made a Special Order for Wednesday, May 5, 2004 at its regular place in the Regular Calendar and spoke in favor.

Adopted.

**BILLS REMOVED FROM CONSENT CALENDAR**

**SB 421**, relative to charter schools. **OUGHT TO PASS WITH AMENDMENT**

Rep. Mark S. Carter for Education: The committee supports the concept of the "new authorizer" charter school law passed by the House during the last session by maintaining and confirming that the State Board of Education shall have wide latitude in their charter approval review process. Further, the committee amendment makes other important corrections/improvements to the existing statutes as requested by the State Board of Education, the Department of Education and charter community. Vote 17-0.

**Amendment (1294h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Charter Schools; Statement of Purpose. Amend RSA 194-B:1-a by inserting after paragraph VIII the following new paragraph:

IX. Encourage the establishment of public charter schools that meet the needs and interests of pupils, parents, communities, regions, and the state as a whole.

2 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II(f) to read as follows:

(f) Curriculum *that meets or exceeds state standards in the subject areas offered.*

3 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II(r) to read as follows:

(r) Annual budget, including all sources of funding, *and a projected budget for the next 2 years.*

4 Charter Schools; Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, II to read as follows:

II. The proposed charter school application shall be presented for approval directly to the state board of education by the applicant for the prospective charter school. The content of such appli-

cation shall conform to the requirements set forth in RSA 194-B:3, II(a)-(bb) *and* (dd). The department of education shall notify an applicant of any missing information within 10 days of the initial filing. The applicant shall file any missing information before the department reviews the application.

5 Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, IV to read as follows:

IV. The state board of education shall either approve or deny an application ~~[based on]~~ *using reasonable discretion consistent with* the criteria set forth in RSA 194-B:1-a. Approval of an application constitutes the granting of charter status and the right to operate as a *public* charter school. The state board of education shall notify all applicants of its decision *in writing*, and shall include in any notice of denial a *written* statement *specifying any areas deemed deficient, the reasons for the denial, and explaining* that the applicant may reapply under RSA 194-B:3, RSA 194-B:4, or under this section in a subsequent year.

6 New Subparagraph; Charter Schools; Establishment and Application. Amend RSA 194-B:3, II by inserting after subparagraph (cc) the following new subparagraph:

(dd) An outline of the proposed accountability plan which clarifies expectations for evaluating the school's program and which contains an acknowledgement that a full accountability plan shall be developed and ready to implement prior to the date of opening.

7 Charter Schools; Authority and Duties of Board of Trustees. Amend the introductory paragraph of RSA 194-B:5, III to read as follows:

III. *Notwithstanding RSA 194-B:1, III*, an established charter school shall be a corporation, *registered with the secretary of state*, with authority necessary or desirable to carry out its charter program including, but not limited to, the following:

8 New Paragraph; Charter Schools; Duties of the State Board. Amend RSA 194-B:17 by inserting after paragraph VII the following new paragraph:

VIII. The state board shall annually report to the joint legislative oversight committee established in RSA 194-B:21 regarding charter school approvals and denials for the preceding 12 months and the reasons for such approvals or denials.

9 Effective Date. This act shall take effect upon its passage.

### MOTION TO LAY ON THE TABLE

Rep. Lars Christiansen moved that *SB 421*, relative to charter schools, be laid on the table.

Motion failed.

Committee amendment adopted.

Rep. Lars Christiansen offered a floor amendment (1443h) and spoke in favor.

### Floor Amendment (1443h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Charter Schools; Statement of Purpose. Amend RSA 194-B:1-a by inserting after paragraph VIII the following new paragraph:

IX. Encourage the establishment of public charter schools that meet the needs and interests of pupils, parents, communities, regions, and the state as a whole.

2 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II(f) to read as follows:

(f) Curriculum *that meets or exceeds state standards in the subject areas offered*.

3 Charter Schools; Establishment and Application. Amend RSA 194-B:3, II(r) to read as follows:

(r) Annual budget, including all sources of funding, *and a projected budget for the next 2 years*.

4 Charter Schools; Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, II to read as follows:

II. The proposed charter school application shall be presented for approval directly to the state board of education by the applicant for the prospective charter school. The content of such application shall conform to the requirements set forth in RSA 194-B:3, II(a)-(bb) *and* (dd). The department of education shall notify an applicant of any missing information within 10 days of the initial filing. The applicant shall file any missing information before the department reviews the application.

5 Charter School Approval by State Board of Education. Amend RSA 194-B:3-a, IV to read as follows:

IV. The state board of education shall either approve or deny an application ~~[based on]~~ **using reasonable discretion consistent with** the criteria set forth in RSA 194-B:1-a. Approval of an application constitutes the granting of charter status and the right to operate as a **public** charter school. The state board of education shall notify all applicants of its decision **in writing**, and shall include in any notice of denial a **written** statement **specifying any areas deemed deficient, the reasons for the denial, and explaining** that the applicant may reapply under RSA 194-B:3, RSA 194-B:4, or under this section in a subsequent year.

6 New Subparagraph; Charter Schools; Establishment and Application. Amend RSA 194-B:3, II by inserting after subparagraph (cc) the following new subparagraph:

(dd) An outline of the proposed accountability plan which clarifies expectations for evaluating the school's program and which contains an acknowledgement that a full accountability plan shall be developed and ready to implement by December 1 of the year the school opens.

7 Charter Schools; Authority and Duties of Board of Trustees. Amend the introductory paragraph of RSA 194-B:5, III to read as follows:

III. An established charter school shall be a **public** corporation with authority necessary or desirable to carry out its charter program including, but not limited to, the following:

8 New Paragraph; Charter Schools; Duties of the State Board. Amend RSA 194-B:17 by inserting after paragraph VII the following new paragraph:

VIII. The state board shall annually report to the joint legislative oversight committee established in RSA 194-B:21 regarding charter school approvals and denials for the preceding 12 months and the reasons for such approvals or denials.

9 Effective Date. This act shall take effect upon its passage.

Rep. Mark Carter spoke against.

Floor amendment (1443h) failed.

Report adopted and ordered to third reading.

## **SB 526, relative to sexual harassment complaint procedures for public employees. OUGHT TO PASS WITH AMENDMENT**

Rep. Peter H. Burling for Legislative Administration: The committee is pleased to present an amendment to the Legislative Ethics Committee statute relative to sexual harassment procedures for complaints against elected members of the General Court. The bill was produced through the great efforts of House counsel, the Attorney General's office, and the staff of the Commission on the Status of Women. The committee unanimously recommends passage. Vote 12-0.

### **Amendment (1335h)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to sexual harassment complaint procedures.

Amend the bill by replacing all after the enacting clause with the following:

1 Purpose. The general court is committed to creating and maintaining an environment in which all legislative employees, legislative officers, and elected members are free from sexual harassment. Harassment shall not be tolerated. The New Hampshire constitution provides that the house of representatives and senate shall be the final judge of the qualifications of the elected members. The legislative ethics committee is established and structured to investigate complaints of inappropriate conduct by members and to make disciplinary recommendations to the full membership of the house of representatives or senate for action. Therefore, the general court hereby adopts a policy directing the legislative ethics committee to receive and investigate sexual harassment complaints by legislative employees, elected members of the general court, and the public relative to inappropriate conduct by elected members. The legislative ethics committee is also hereby directed to recommend appropriate discipline to the full membership of the house of representatives or senate when it finds that an elected member of the general court has engaged in conduct that constitutes sexual harassment.

2 New Paragraph; Legislative Ethics Committee; Definitions. Amend RSA 14-B:1 by inserting after paragraph I the following new paragraph:

I-a.(a) "Sexual harassment" means an unwelcome sexual advance, a request for a sexual favor, or other verbal or physical conduct of a sexual nature, provided, that:

(1) Submission to such conduct is made either explicitly or implicitly a term of the individual's employment;



(2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct is so pervasive or severe that it creates an intimidating, hostile, or offensive working environment.

(b) As used in subparagraph (a), verbal or physical conduct of a sexual nature may include:

(1) Verbal abuse of a sexual nature;

(2) Unwelcome offensive sexual flirtation;

(3) Unwelcome graphic verbal comments about an individual's body;

(4) Sexually degrading words to describe an individual;

(5) Unwelcome brushing, touching, patting, or pinching an individual's body;

(6) Sexually explicit gestures;

(7) The display in the state house complex of sexually suggestive, sexually demeaning, or pornographic objects, pictures, posters, or cartoons; or

(8) Unwelcome inquiry or comment about sexual conduct, sexual orientation, or preference.

3 Legislative Ethics Committee; Duties. Amend RSA 14-B:3, I(d) to read as follows:

(d) Receive sworn complaints, and investigate allegations of improper conduct, *including sexual harassment against members or retaliation against employees who make good faith allegations of sexual harassment*, which may reflect upon the legislature, relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the legislature, and make appropriate findings of fact and conclusions with respect to such conduct. Deliberations on such sworn complaints shall be conducted in nonpublic session and in accordance with procedures set forth in RSA 14-B:4 and established by the committee under RSA 14-B:5. The committee shall consider any sworn complaint and shall conduct its initial review of each complaint in a confidential manner, unless otherwise requested by the legislator, officer, or employee complained against.

4 New Paragraph; Legislative Ethics Committee; Complaints. Amend RSA 14-B:4 by inserting after subparagraph IV the following new paragraph:

IV-a. In the case of sexual harassment complaints, all work product and committee proceedings shall be non-public. Upon a finding that a member has engaged in sexual harassment, the committee shall make available for public inspection all records relating to the complaint. The committee shall not disclose its work product, internal memoranda, or any other documentation or information that would be considered confidential under RSA 91-A or any other law, except pursuant to a court order.

5 Legislative Ethics Committee; Rules. Amend RSA 14-B:5 to read as follows:

14-B:5 Rules; Procedures and Standards. The committee shall adopt, publish, and make available to the public rules governing its procedures, *including rules specifically related to sexual harassment complaints*, as well as guidelines referred to in RSA 14-B:3, II consistent with the procedures set forth in RSA 541-A.

6 Effective Date. This act shall take effect upon its passage.

Adopted.

Report adopted and ordered to third reading.

## RESOLUTION

Rep. Hess offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Wednesday, May 5, 2004 at 10:00 a.m.

Adopted.

## LATE SESSION

### Third reading and final passage

**SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem.

**SB 314**, relative to access to medical records.

**SB 348**, relative to the sale of manufactured housing and the management of manufactured housing parks.

**SB 371**, relative to certain technical changes in the insurance laws.

**SB 448-FN**, relative to consumer guaranty contracts.

**SB 461**, relative to the regulation of gift certificates under the consumer protection act.

**SB 418**, relative to voting procedures in the Hanover school district.

**SB 356**, relative to the powers and duties of the community development finance authority.

**SB 403**, relative to the board of medicine.

**SB 459**, making certain changes to the real estate practice act.

**SB 443**, relative to rural electric cooperatives.

**SB 495-FN**, relative to original and youth operators' licenses.

**SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway.

**SB 470-FN**, relative to funding for the physician effectiveness program.

**SB 427**, relative to the definition of marriage.

**SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies.

**SB 397**, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program.

**SB 335**, relative to access to birth records.

**SB 316**, relative to the payment of salaried employees.

**SB 421**, relative to charter schools.

**SB 526**, relative to sexual harassment complaint procedures for public employees.

### PERSONAL PRIVILEGE

Rep. Soltani addressed the House.

Rep. Itse moved to have Rep. Soltani's remarks printed in the Journal.

Adopted.

### REMARKS

Rep. Soltani: Thank you, Mr. Speaker. I will be very brief. Earlier in the day during the heated debate that we had that went on for 4 ½ hours, a good friend of mine and another Representative appeared to make remarks that may have been derogatory toward me. It was a mere mis-statement; it was a mistake. We remain good friends and I have immense respect for them. Thank you.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purposes of enrolled bill amendments, enrolled bill reports and receiving Senate messages.

Adopted.

The House recessed at 5:30 p.m.

### RECESS

(Rep. Rogers Johnson in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 285, 403, 736, 761, 767, 1133, 1134, 1135, 1155, 1159, 1169, 1210, 1212, 1225, 1301, 1308, 1309, 1311, 1329, 1336, 1361, 1370, 1372, 1374, 1423, and Senate Bills numbered 416, 513, and 529.

Rep. Currier, Sen. D'Allesandro for the Committee

### ENROLLED BILL AMENDMENTS

**HB 53**, relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

#### Amendment (1469-EBA)

Amend RSA 261:22, V as inserted by section 1 of the bill by replacing line 7 with the following: *a certificate of title or registration disclosing that the vehicle is a rebuilt vehicle.*

Adopted.

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing.

#### Amendment (1347-EBA)

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Contingent Renumbering. If SB 450-FN of the 2004 legislative session becomes law, then RSA 284:12, VII as inserted by section 2 of this act shall be renumbered to RSA 284:12, VIII.  
Adopted.

**HB 532**, relative to notice and filing of divorce petitions.

#### **Amendment (1464-EBA)**

Amend RSA 458:9, II(a) as inserted by section 1 of the bill by replacing line 2 with the following:

(1) A sheriff, in hand or by leaving an attested copy of the petition, orders of  
Amend RSA 458:9, II(a) as inserted by section 1 of the bill by replacing line 6 with the following:

(2) Certified mail, return receipt requested, restricted delivery, mailed within 7  
Amend RSA 458:9, II(b) as inserted by section 1 of the bill by replacing line 2 with the following:

(1) An officer authorized to make service of process in the state where the  
Amend RSA 458:9, II(b) as inserted by section 1 of the bill by replacing line 6 with the following:

(2) Certified mail, return receipt requested, restricted delivery, signed by the  
Adopted.

**HB 1355**, changing the name of the sweepstakes commission to the lottery commission.

#### **Amendment (1467-EBA)**

Amend section 2 of the bill by replacing lines 1-2 with the following:

2 Name Change. Amend RSA 6:12, I(b)(1) to read as follows:

(1) Moneys received by the state [~~sweepstakes~~] **lottery** commission, which shall be  
Amend section 5 of the bill by replacing lines 1-3 with the following:

5 Name Change. Amend RSA 284:21-i, I-III to read as follows:

I. The [~~sweepstakes~~] **lottery** commission shall be empowered to employ such technical  
Amend section 9 of the bill by replacing line 2 with the following:

I. All existing rules, regulations, and procedures in effect, in operation, or adopted by the  
Adopted.

**HB 1410**, relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.

#### **Amendment (1450-EBA)**

Amend section 1 of the bill by replacing line 2 with the following:

Information to Placements. Amend RSA 170-E:34, I(g) to read as follows:

Adopted.

### **SENATE MESSAGES**

#### **CONCURRENCE**

**HB 493**, relative to the municipal budget act.

**HB 1316-FN-A**, relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.

**CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

#### **NONCONCURRENCE**

**HB 1172-L**, relative to compensation of county convention members for county business.

**HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program.

**HB 1394**, relative to de novo appeals in certain criminal proceedings.

**CONCURRENCE WITH AMENDMENTS**

**SB 19-FN**, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.

**SB 128-FN**, relative to the advisory committee assisting the secretary of state in administering the vital records improvement fund.

**SB 176**, relative to standards for plats recorded in the registry of deeds.

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees.

**SB 351-FN**, relative to concurrent enrollment at regional vocational education centers.

**SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems.

**SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records.

**SB 377**, relative to damage to land by certain recreational uses.

**SB 380**, establishing a statewide incident command system.

**SB 399-FN**, relative to the sale of animals.

**SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety.

**SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph School of Nursing.

**SB 455**, removing the requirement that district courts be open on Saturdays for arraignments.

**SB 465**, relative to testimony of witnesses about confidential settlements.

**SB 467**, establishing an exemption from the public sewer connection requirements for 2 projects in the town of Derry.

**SB 469**, relative to licensing of boiler inspectors.

**SB 488**, establishing a committee to study the effects of electric utility restructuring on state dams and the alternatives for the operation and maintenance of state-owned dams.

**SCR 5**, commending the United States Congress for supporting concurrent receipt of disability and retirement benefits by disabled veterans.

**RECESS****(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 14

Wednesday, May 5, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

### INTRODUCTION OF SPECIAL GUESTS

Senate President Thomas Eaton and members of the Senate, Executive Councilors Burton, Spaulding, Griffin, Wieczorik and Wheeler, guests of the House.

Joining the Speaker on the rostrum were Governor Craig Benson, Major General John E. Blair of the New Hampshire National Guard and United States Secretary of Veterans Affairs, Anthony J. Principi.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

May we never fail to honor, O Lord, the sacrifice of those who answered the call to defend this country when the lamp of freedom was threatened in a time of peril. As today, brave men and women serve at home and in far away places to protect us, so too did previous generations whom it would be easy for us to forget. Inspire us to use every resource that we have to protect and uphold every veteran who asked only that their country not forsake them in their time of need.

May the work of democracy accomplished in this honorable House today be dedicated to all the veterans of our state whose sacrifice inspires us to care for all the citizens of our beloved New Hampshire and may each member of our freely elected government hold sacred their responsibility to serve freedom's cause, for it is a duty bequeathed in the sacrifice of blood and lives of many. Be with all those today who stand in harm's way to protect and defend us with honor and courage. Amen.

Members of the New Hampshire National Guard presented the Colors.

At the Speaker's request, all Representatives who are veterans led the House and assembled special guests in the Pledge of Allegiance.

The National Anthem was sung by Captain Jerome Loring of the New Hampshire Army National Guard.

### INTRODUCTION OF ADDITIONAL SPECIAL GUESTS

Roland Patnode, Commander, New Hampshire Department of the American Legion. Gene Pawlik, Past Commander, New Hampshire Department of Veterans of Foreign Wars. Brian Matchett, Commander, New Hampshire Department of Disabled American Veterans. Hon. Griffin Dalianis, Civilian Aide to the Secretary of the Army. Superintendent of the New Hampshire Veterans' Cemetery, Director of the State Veterans' Council and Commandant of the New Hampshire Veterans' Home. Hon. John Smart, Veterans' Service Organization Liaison in the Office of the Secretary. All were special guests of the House.

### ADDRESS BY SECRETARY PRINCIPI

Anthony J. Principi, United States Secretary of Veterans' Affairs, addressed the House and assembled guests.

The House recessed at 10:45 a.m.

### RECESS

The House reconvened at 10:55 a.m.

### LEAVES OF ABSENCE

Reps. Brady, Callaghan, Jeffrey Carter, Dalrymple, Flanagan, Gionet, Joseph Harris, Sandra Harris, Lefebvre, Moore and Pitts, the day, illness.

Reps. Balcom, Bergin, Cail, Corbin, Daniels, Dewhirst, Dumaine, Hatch, Itse, Jean, McRae, Irene Pratt, Herbert Richardson, Ross, Slack, Paul Smith and Winchell, the day, important business.

Reps. Brassard and Hunter, the day, death in the family.

## INTRODUCTION OF ADDITIONAL GUESTS

Amber Wilmont, guest of Rep. Lasky. Leadership Seacoast class, guests of Reps. Norelli, Franceour, Cataldo, Easson and Campbell. Rockingham Rubies and Red Hats of Pelham, guests of the Salem and Windham delegations.

## SENATE MESSAGES

### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 1224**, establishing the Uniform Trust Code in New Hampshire. (Amendment printed SJ 04/29/04)  
Rep. Hunt moved that the House concur and spoke in favor.  
Adopted.

**HB 1422**, relative to qualifications for persons who negotiate on behalf of the state. (Amendment printed SJ 04/29/04)  
Rep. O'Neil moved that the House concur and spoke in favor.  
Adopted.

**HB 1302**, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. (Amendments printed SJ 04/29/04)  
Rep. Mock moved that the House concur and spoke in favor.  
Adopted.

**HB 230**, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act. (Amendment printed SJ 04/22/04)  
Rep. MacKay moved that the House concur and spoke in favor.  
Adopted.

**HB 1221**, urging the oversight committee on telecommunications to study aspects of federal universal service funding. (Amendment printed SJ 04/29/04)  
Rep. Thomas moved that the House concur and spoke in favor.  
Adopted.

**HB 1183**, relative to transporting manufactured housing or modular buildings. (Amendment printed SJ 04/22/04)  
Rep. Packard moved that the House concur and spoke in favor.  
Adopted.

**HB 1243**, prohibiting the collection of biometric data. (Amendment printed SJ 04/22/04)  
Rep. Packard moved that the House concur and spoke in favor.  
Adopted.

## COMMITTEE REPORTS

### CONSENT CALENDAR

Rep. Hess moved that the Consent Calendar with the relevant amendments as printed in the day's House Record be adopted.

**SB 478-FN**, relative to penalties for DWI offenses, removed by Rep. Holden.

**SB 153**, adopting the nurse licensure compact, removed by Rep. Schulze.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting, removed by Rep. Patten.  
Consent Calendar adopted.

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. **OUGHT TO PASS WITH AMENDMENT**

Rep. Carolyn M. Gargas for Children and Family Law: This bill is the result of the oversight committee's review of the pilot program in Grafton County. The bill as amended expands the pilot to Rockingham County with the potential to go statewide in the future. Vote 14-0.

### Amendment (1409h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.

Amend the bill by replacing all after the enacting clause with the following:

1 Court Pilot Project Continued and Expanded. Amend RSA 2002, 243:2-243:5 as amended by 2003, 206:5 – 206:6 to read as follows:

243:2 Abuse and Neglect Hearings in the Grafton *and Rockingham* County [~~Court~~] *Courts*; Pilot Project.

I. A pilot project in the Grafton *and Rockingham* county [~~court~~] *courts* is established to assess opening hearings in child abuse and neglect cases to the public absent a finding that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties.

II. *All observers of and participants in hearings conducted under this section shall be subject to the confidentiality provisions of RSA 169-C:25.*

III. Notwithstanding RSA 169-C:14, any hearing held under RSA 169-C in the court participating in the pilot project shall be open to the public unless the court makes a specific finding, upon motion of either party or sua sponte by the court, that opening the hearing or that disclosure of some or all of the evidence would be contrary to the best interests of the child or would cause unreasonable harm to one or more of the parties. The court shall then limit admittance to the hearing only to the extent required to prevent disclosure of the harmful evidence except where a child who is the subject of the proceedings attends a hearing, in which case it shall be presumed that admitting nonparties would be contrary to the best interests of the child or would cause unreasonable harm. In any event, medical and psychological reports, records, and profiles, and testimony referring to the contents of such reports, records, and profiles, shall remain non-public. Such hearing shall, whenever possible, be held in rooms not used for criminal trials.

IV. Expansion of the pilot program to any county shall be implemented based on procedures developed in Grafton county by the administrative judge of the family division.

[~~HF.~~] V. The [~~supervisory judge of the family court in Grafton county~~] *administrative judge of the family division* shall prepare a report on the findings and recommendations of the Grafton *and Rockingham* county [~~court~~] *courts* relative to opening hearings in child abuse and neglect cases under the terms established by the pilot project. The [~~supervisory judge of the family court in Grafton county~~] *administrative judge of the family division* shall provide the report to the governor, the speaker of the house of representatives, the senate president, the legislative oversight committee, the senate clerk, the house clerk, and the commissioner of the department of health and human services on or before September 1, [~~2004~~] *2006*.

243:3 Legislative Oversight Committee Established. There is established a legislative oversight committee to monitor the progress of the pilot project in the Grafton *and Rockingham* county [~~court~~] *courts*.

I. Membership and Compensation.

(a) The members of the committee shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the oversight committee shall receive mileage at the legislative rate when attending to the duties of the committee.

(c) *The administrative judge of the family division shall appoint one judge in each county to serve as a liaison on the pilot project to the legislative oversight committee.*

II. Duties. The legislative oversight committee shall:

(a) Establish criteria to evaluate the effectiveness of the pilot project, *including the effects of opening hearings on children and families involved.*

(b) Determine what costs, if any, are incurred by the [~~court~~] *courts* as a result of the project.

(c) Assess the effectiveness of the project based on the established criteria and information gathered by the committee regarding the project's implementation.

III. Chairperson; Quorum. The members of the legislative oversight committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

IV. Report. The committee shall *make an interim report of* its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, [~~2004~~] *2005. The interim report shall include recommendations, based on results, regarding*

*expansion of the pilot project to Hillsborough County beginning July 1, 2006. The committee shall submit a final report on or before November 1, 2006. The final report shall include recommendations, based on results, regarding expansion of the pilot project statewide.*

243:4 Repeal. Section 2 of this act, relative to the pilot project in Grafton [~~county~~] and Rockingham counties, is repealed.

243:5 Effective Date.

I. Section 4 of this act shall take effect June 30, [~~2004~~] 2006.

II. The remainder of this act shall take effect upon its passage.

2 Effective Date. This act shall take effect June 29, 2004.

### AMENDED ANALYSIS

This bill continues for 2 years, and expands to Rockingham county, the Grafton county court pilot project which opens abuse and neglect hearings to the public. The bill also continues the legislative oversight committee on the pilot project and requires the committee to make an interim report on or before November 1, 2005 and a final report by November 1, 2006.

### **SB 366-FN, relative to the Interstate Insurance Product Compact. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This is an effort to streamline the sale of insurance products by standardizing rules and regulations of states that subscribe to an interstate compact. An interstate compact is a contract between states that allows states to cooperate on multi-state or national issues while retaining state control. They are specifically mentioned in the U.S. Constitution. The Compact will be an agreement among member states to create a streamlined system of product regulation. The new system would allow insurers to more quickly market certain type of insurance products nationally and to reduce the number of variations of the same product that a company must produce to meet state specific product standards. The Compact would create a multi-state commission to receive, review and quickly make regulatory decisions on insurance product filings according to national uniform standards. The modernization efforts, as outlined in the National Association of Insurance Commissioners' (NAIC's) Statement of Intent adopted in March of 2000, include a "speed to market" initiative which focuses on making more efficient the process by which insurance products are reviewed and approved by state insurance regulators. As distinguishable from health and property/casualty insurance products, many products sold by life insurers have evolved to become primarily investment products. The Compact would allow insurers competing on a regional or national scale to file their products in one central filing place (i.e., the multi-state commission). The Compact would have jurisdiction over four product lines: life insurance, annuities, disability income, and long-term care insurance. The Compact would create a multi-state commission, which will include one member from each member state. The commission would adopt a set of bylaws to govern its activities. A management committee of 14 members would oversee the day-to-day activities of the Compact. States participating in the Compact would create uniform product standards through a rulemaking process. In order to be adopted, a uniform standard must receive approval by two-thirds of the Management Committee and two-thirds majority of the states participating in the Compact. A state can opt-out of uniform product standards in two ways. First, it may enact legislation opting out of any uniform standard at any time. Second, it may also opt-out by regulation. The compact model act directs the Commission to establish an advisory committee for consumer representatives. It directs a similar advisory committee for insurance industry representatives. This group would participate in the process of creating uniform standards and serve as a formal mechanism for consumer representatives. The state insurance commissioner would continue to oversee market regulation activities. The Compact would come into existence when two states enact the compact model act. The Compact would become operational when 26 states or states representing 40 percent of the premium volume for life insurance, annuities, disability income and long-term care insurance join the Compact. Joining the Compact would have no fiscal impact on states. A member state could withdraw from the Compact at any time by repealing the statute that enacted the Compact into law. Vote 15-0.

### **Amendment (1134h)**

Amend RSA 408-C:2, III as inserted by section 2 of the bill by replacing it with the following:

III. "Compacting state" means any state which has enacted this compact legislation and which has not withdrawn pursuant to RSA 408-C:14. I, or been terminated pursuant to RSA 408-C:14. II.



Amend RSA 408-C:2, VIII as inserted by section 2 of the bill by replacing it with the following:

VIII. "Member" means the person chosen by a compacting state as its representative to the commission, or designee.

Amend the introductory paragraph of RSA 408-C:7, IV (b) as inserted by section 2 of the bill by replacing it with the following:

(b) The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner shall consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh:

Amend RSA 408-C:8, II as inserted by section 2 of the bill by replacing it with the following:

II. Except as to privileged records, data and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data or information to the commission; provided, that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this chapter, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

Amend RSA 408-C:15 as inserted by section 2 of the bill by replacing it with the following:

408-C:15 Severability and Construction. The provisions of this compact shall be severable; and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof, to any state, agency, person, or circumstances held invalid, the constitutionality of the remainder of this compact and the applicability thereof, to any other state, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed to effectuate its purpose.

### **SB 367, relative to the New Hampshire Insurance Guaranty Association Act of 2004. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This legislation, as amended, updates the New Hampshire Insurance Guaranty Association; the current law has been in place since 1970. The law was amended in 1975. This legislation is a new statute in that it would cover insolvencies that may occur on or after the effective date. The current law, RSA 404-B will continue only for any insolvency that occurs before the effective date. The proposed new legislation does several things. First of all, it deletes the \$50 deductible to all claims for payment from Guaranty Funds. The bill also creates a 36-month cut off in which to file a claim. Last year the law was changed so that a claimant could not have assets worth more than \$25,000,000. This bill adds the inclusion of affiliates when calculating the net worth of the disallowed claimant. The new law also allows for re-coupment through subrogation. The amendment deletes any reference to state guarantees from the statute. Further, if the 2% assessment that is currently in place is inadequate, the bill allows the fund to borrow money from traditional sources as well as other insurers. Currently twenty existing liquidations are on going in the United States to which the new law would not be applicable. The NH Guaranty Association, however, will continue to administer to the old and the new law. Vote 15-0.

### **Amendment (1327h)**

Amend RSA 404-H:8, I(a)(1)(B) as inserted by section 1 of the bill by replacing it with the following:

(B) An amount not exceeding \$300,000 for other covered claims. Payment by the association of an amount satisfying the obligations of the association to a person instituting a liability claim shall satisfy the association's obligations to pay the insured.

Amend RSA 404-H:8, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) In no event shall the association be obligated to pay an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.

Amend RSA 404-H:8, I(d)(1) as inserted by section 1 of the bill by replacing it with the following:

(1) 36 months after the date of the order of liquidation; or

Amend RSA 404-H:8, I(e)-(m) as inserted by section 1 of the bill by replacing them with the following:

(e) If the association determines that there may be more than one claimant having a covered claim against the association under the policy or policies of any one insolvent insurer, the association may establish a plan to allocate amounts payable by the association in such manner as the association in its discretion deems equitable.

(f) Be deemed the insurer only to the extent of the association's obligation on the covered claims and to such extent, subject to the limitations provided in this chapter, shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent, including but not limited to the right to pursue and retain salvage and subrogation recoverables on paid covered claims obligations. The association shall not be deemed the insolvent insurer for any purpose relating to the issue of whether the association is amenable to the personal jurisdiction of the courts of any jurisdiction.

(g) Allocate claims paid and expenses incurred among the 3 accounts separately, and assess member insurers separately for each account amounts necessary to pay the obligations of the association under subparagraph 1(a) subsequent to an insolvency, the expenses of handling covered claims subsequent to an insolvency, and other expenses authorized by this chapter. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment on the kinds of insurance in the account bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment on the kinds of insurance in the account. Each member insurer shall be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any one year on any account an amount greater than 2 percent of that member insurer's net direct written premiums for the calendar year preceding the assessment on the kinds of insurance in the account. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available. The association shall pay claims in any order that it deems reasonable, including the payment of claims as such are received from the claimants or in groups or categories of claims. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; provided however that, during the period of deferment, no dividends shall be paid to shareholders or policyholders. Deferred assessments shall be paid when such payment will not reduce capital or surplus below required minimums. Such payments shall be refunded to those companies receiving larger assessments by virtue of such deferment, or at the election of any such company, credited against future assessments.

(h) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims.

(i) Not be bound by any settlement, release, compromise, waiver or judgment executed or entered within 12 months prior to an order of liquidation and shall have the right to assert all defenses available to the association including, but not limited to, defenses applicable to determining and enforcing its statutory rights and obligations to any such claim. The association shall be bound by any settlement, release, compromise, waiver or judgment executed or entered into more than one year prior to an order of liquidation; provided however such claim is a covered claim and such settlement or judgment was not a result of fraud, collusion, default or failure to defend. Further, as to any covered claims arising from a judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend, the association either on its own behalf or on behalf of an insured may apply to have such judgment, order, decision, verdict or finding set aside by the same court or administrator that made such judgment, order, decision, verdict or finding and shall be permitted to defend such claim on the merits.

(j) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but such designation may be declined by a member insurer.

(k) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by this chapter.

(l) Notwithstanding any of the powers of the commissioner as liquidator as provided for in RSA 402-C, the association shall have the final authority with respect to the processing and settlement of covered claims for which it becomes responsible pursuant to this chapter, including authority for the use of records of the insolvent insurer directly related to covered claims. At the conclusion of the association's responsibility with respect to any insolvent insurer, any original records of said insolvent insurer then in the possession of the association shall be turned over to the liquidator for ultimate disposal in accordance with RSA 402-C. The association shall cooperate with any agent to the extent possible in identifying policyholders of the agent and the insolvent insurer.

Amend RSA 404-H:8, IV as inserted by section 1 of the bill by replacing it with the following:

IV. In the event of an insolvency resulting in covered claims payable by the association in excess of its capacity to pay from assessments collected under RSA 404-H:8, I(g), the association may borrow funds pursuant to RSA 404-H:8, II(b) from any domestic insurer willing and able to enter into an agreement to provide that funding, or a portion thereof, with the approval of the commissioner.

Amend the introductory paragraph of RSA 404-H:11, II as inserted by section 1 of the bill by replacing it with the following:

II. The association shall have the right to recover from the following persons the amount of any covered claim paid, whether for defense, indemnity, or otherwise, on behalf of such person pursuant to this chapter:

Amend RSA 404-H:16 as inserted by section 1 of the bill by replacing it with the following:

404-H:16 Recognition of Assessments in Rates.

I. The rates and premiums charged for insurance policies to which this chapter applies may include amounts sufficient to recoup a sum equal to the amounts paid to the association by the member insurer less any amounts returned to the member insurer by the association. Such rates may not be deemed excessive because they contain an amount reasonably calculated to recoup assessments paid by the member insurer. Alternatively, the member insurer may recoup assessments by collecting a surcharge on premiums charged for insurance policies to which this chapter applies instead of recouping the assessments through its rates and premiums.

II. The amount of any surcharge may be separately stated on either a billing or policy declaration sent to an insured.

III. Member insurers who collect surcharges in excess of assessments owed for an insolvent insurer shall remit the excess to the association as an additional assessment within 30 days after the association has determined the amount of the excess recoupment and given notice to the member of that amount. The excess shall be applied to reduce future assessment charges in the appropriate accounts.

IV. A member insurer may omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to remit the amount of surcharge otherwise collectible.

V. Amounts recouped through surcharge shall be considered premiums for all purposes, including the computation of gross premium tax.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 New Subparagraph; Insurance; Types of Investments. Amend RSA 402:28, I by inserting after subparagraph (p) the following new subparagraph:

(q) With approval of the commissioner, funds loaned to the New Hampshire Insurance Guaranty Association pursuant to RSA 404-H:8, II(b).

**SB 430-FN**, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers. **VOUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: Every session the legislature receives bills, which propose new mandated benefits to health insurance policies. These proposed benefits require careful consideration, as they will result in some level of increase in the cost of insurance premiums. The original intent of this bill was to provide a legislative process to obtain a third party analysis of the costs and benefits of a proposed mandate. The committee has amended the bill to grant direct

authorization to the Commissioner of Insurance to contract for an external review and evaluation of mandated benefits. The bill also allows the committee of jurisdiction in either the House or Senate to refer a proposal for review. The results of any such reports shall be reported to the standing committee(s), which have oversight of the proposed mandate. The cost of these third party reviews is assessed to the insurance licensees as part of the general costs of the department. The bill provides for a sunset of the Commissioner's authority on January 1, 2010. Vote 11-0.

### **Amendment (1381h)**

Amend the bill by deleting sections 1 and 2 and renumbering the original sections 3-9 to read as 1-7, respectively.

Amend the bill by replacing section 1 with the following:

1 New Section; Insurance; Review and Evaluation of Mandated Insurance Benefits Proposed Under RSA 281-A, RSA 415, RSA 420-A, and RSA 420-B. Amend RSA 400-A by inserting after section 39 the following new section:

400-A:39-a Review and Evaluation of Proposed Insurance Mandated Benefit Proposals Under RSA 281-A, RSA 415, RSA 420-A, and RSA 420-B.

I. The commissioner is authorized to contract for an external review and evaluation of any mandated benefit.

II. Whenever a legislative measure containing a mandated benefit is proposed, the standing committee of either the house or the senate having jurisdiction over the proposal may refer the proposal to the insurance department for review and evaluation.

III. Upon a referral of a mandated benefit proposal from the standing committee of the house or the senate having jurisdiction over the proposal, or at the discretion of the commissioner, the insurance department shall conduct a review and evaluation of the mandated benefit proposal and shall report any results to the standing committee that has oversight of the mandated benefit. In the instance of a mandated benefit proposal affecting RSA 281-A, the review and evaluation by the insurance department shall be conducted in conjunction with input from the labor department.

IV. The report shall include, at a minimum and to the extent that information is available, the following:

- (a) The social impact of mandating the benefit.
- (b) The financial impact of mandating the benefit.
- (c) The medical efficacy of mandating the benefit.
- (d) The effects of balancing the social, economic, and medical efficacy considerations.

V. For the purposes of this section, a mandated benefit proposal is one that mandates insurance coverage for certain conditions, specific health services, specific diseases, or certain providers of health care services.

Amend the bill by replacing all after section 6 with the following:

7 Repeal. RSA 400-A:39-a, relative to review and evaluation of mandated insurance benefits, is repealed.

8 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. Section 7 of this act shall take effect January 1, 2010.

III. The remainder of this act shall take effect upon its passage.

### **AMENDED ANALYSIS**

This bill requires that any legislative proposal which mandates insurance benefits, including workers' compensation benefits, be evaluated by the insurance department before being enacted into law if a standing committee requests such an evaluation.

This bill also establishes a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

### **SB 441, relative to the operation of dental clinics by healthcare charitable trusts. OUGHT TO PASS WITH AMENDMENT**

Rep. Leo W. Fraser, Jr. for Commerce: This bill is an effort to improve access to dental services for New Hampshire citizens by clarifying that health care charitable trusts may own, lease, maintain or create dental clinics under state law. It is important to note that the foregoing will be helpful, provided that the trust complies with the state community benefits reporting law, ensures that

the practice of dentistry is conducted under the supervision of a dentist licensed in New Hampshire, and that the Board of Dental Examiners is notified of the name and location of dental clinics. The amendment is necessary to clarify that dentists and dental hygienists are both regulated under the new provisions. Vote 11-0.

#### **Amendment (1243h)**

Amend the bill by inserting after section I the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Practice of Dental Hygiene. Amend RSA 317-A:21-c by inserting after paragraph III the following new paragraph:

IV. The practice of dental hygiene conducted under the authority of a health care charitable trust as provided in RSA 317-A:20, III(c) shall be performed by dentists or by dental hygienists licensed by the board and who practice under the supervision of a dentist licensed by the board. The health care charitable trust shall notify the board in writing of the name and location of the dental clinic and the name of the supervising dentist, and shall notify the board within 10 days of any change of the supervising dentist.

#### **SB 442, relative to manufactured housing installation standards. OUGHT TO PASS WITH AMENDMENT**

Rep. Charles L. Clark for Commerce: This bill was introduced in the Senate in response to a federal law that passed in December of 2000 requiring the development of installation standards for manufactured housing that also includes licensing for installers, inspection of installations and a dispute resolution program. The federal law allowed each state to implement its own installation program before December 2005. If a state program is not implemented the federal program will control. The state program to be established under SB 442, as amended, will address the unique regional aspects of installing a manufactured house in New Hampshire and will be attentive to cost issues in order to maintain the affordability of these houses. The most important aspect of this bill, however, is that it is a consumer protection bill that will ensure the quality and safety of the manufactured houses being installed in New Hampshire. If a house is not properly installed the consumer will have an effective recourse. The bill establishes an Installation Standards Board under the Department of Safety comprised of technical experts and consumers to develop appropriate standards for licensing, installation and inspections. Manufactured house dealers, installers, park owners, and tenants uniformly support this bill. Vote 18-0.

#### **Amendment (1287h)**

Amend the bill by replacing all after the enacting clause with the following:

I New Chapter; Manufactured Housing Installation Standards. Amend RSA by inserting after chapter 205-C the following new chapter:

##### **CHAPTER 205-D**

##### **MANUFACTURED HOUSING INSTALLATION STANDARDS**

205-D:1 Definitions. In this chapter:

I. "Anchoring system" means a method of construction which when properly designed and installed will resist overturning and lateral movement of the manufactured house.

II. "Board" means the installation standards board.

III. "Commissioner" means the commissioner of the department of safety.

IV. "Dealer" or "retailer" means any person engaged in the retail selling or offering for sale, brokering, or distribution of manufactured houses, primarily to a person who purchases these houses for residential use.

V. "Department" means the department of safety.

VI. "Federal Manufactured Housing Construction and Safety Standard" means a standard for the construction, design, and performance of a manufactured house which meets the needs of the public including the need for quality, durability, and safety which has been duly adopted by the federal government pursuant to the National Manufactured Housing Construction and Safety Standards Acts of 1974, 42 United States Code, section 5401, et seq.

VII. "Installation" means the placement of a manufactured house on a permanent or temporary system. This term includes, but is not limited to, supporting, restraining, blocking, leveling, securing, anchoring, and connection of plumbing, heating, cooling, and electrical systems and the multiple or expandable sections of the house. Installation shall include site preparation.

VIII. "Installation standards" means reasonable specifications for the installation of a manufactured house, at the place of occupancy, to ensure proper siting, the joining of all sections of the house, and the installation of stabilization, support, or anchoring systems.

IX. "Installer" means any person who performs the installation of manufactured houses as prescribed under this chapter.

X. "Local enforcement agency" means the building inspector or other local government official with authority to issue permits or enforce building codes.

XI. "Manufactured housing" means any structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include campers or recreation vehicles as defined in RSA 216-I:1 or RSA 259:84-a; presite built housing as defined in RSA 674:31-a; or modular buildings as defined in RSA 205-C:1, XI.

XII. "Manufacturer" means any person engaged in manufacturing or assembling manufactured housing.

XIII. "Site" means a designated lot or parcel of land designed for the accommodation of a manufactured house.

205-D:2 Board Established; Members; Terms; Chairperson.

I. There is hereby created an installation standards board consisting of the commissioner of the department of safety or the commissioner's designee and 12 additional members appointed by the commissioner of safety as follows:

(a) Two public members who are not tenants or owners of a manufactured house, owners or operators of a manufactured housing park, or in any way associated with the manufactured housing industry.

(b) One installer of manufactured housing, nominated by the New Hampshire Manufactured Housing Association.

(c) One structural engineer or architect licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.

(d) One dealer or retailer, nominated by the New Hampshire Manufactured Housing Association.

(e) One owner or operator of a manufactured housing park with 100 or fewer lots, nominated by the New Hampshire Manufactured Housing Association.

(f) One owner or operator of a manufactured housing park with more than 100 lots, nominated by the New Hampshire Manufactured Housing Association.

(g) One member of a cooperative manufactured housing park, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

(h) One municipal building code official, nominated by the New Hampshire Building Officials Association.

(i) One municipal fire chief, nominated by the New Hampshire Association of Fire Chiefs.

(j) One civil engineer licensed in this state for a minimum of 5 years, nominated by the board of engineers established under RSA 310-A:3.

(k) One homeowner of a manufactured house, nominated by the Mobile/Manufactured Homeowner and Tenants Association of New Hampshire.

II. Each person shall serve for a 3-year term and until a successor is appointed and qualified; provided, however, that the initial appointments shall be as follows:

(a) Members appointed pursuant to subparagraphs I(b), (d), (k), and (f) shall serve 3-year terms.

(b) Members appointed pursuant to subparagraphs I(c), (h), (e), and (i) shall serve 2-year terms.

(c) Members appointed pursuant to subparagraphs I(a), (j), and (g) shall serve one-year terms.

III. At the initial organizational meeting of the board, the commissioner of the department of safety shall appoint a chairperson from among the members.

IV. If there is a vacancy on the board, the provisions of RSA 21:33-a and RSA 21:34 shall apply to the public members, as well as to the members appointed pursuant to subparagraphs I(b) through (k).

V. The board shall hold meetings every 90 days and may meet more frequently as deemed necessary by the board or the chairperson.

VI. The board shall operate as a unit of the department of safety.

205-D:3 Duties of the Board. The duties of the board shall be to:

I. Assure compliance with the Federal Manufactured Housing Construction and Safety Standard, including compliance with the standard as amended by the Manufactured Housing Improvement Act of 2000, Public Law 106-569.

II. Establish uniform manufactured housing installation standards in order to protect the quality, durability, safety, and affordability of manufactured housing in this state.

III. Adequately license and train manufactured housing installers in order to ensure the proper performance of the house and protect the safety and welfare of the public.

IV. Ensure compliance with state installation standards by conducting appropriate inspections of the installation of manufactured housing.

V. Provide a fair and effective recourse for consumers relative to installation standards; and provide a dispute resolution program for timely resolution of disputes between manufacturers, retailers, and installers of manufactured houses regarding responsibility, and for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period beginning on the date of installation.

205-D:4 Installation Standards.

I. This chapter shall apply to the installation of all new and relocated manufactured housing that is used as a residential dwelling, except as provided in paragraph II.

II. The following manufactured housing sites are exempt from this chapter; provided that such housing sites are maintained and operated in a safe and sanitary condition:

(a) Sites that are already occupied as of the date of the enactment of this chapter.

(b) Sites for the installation of manufactured housing which provides temporary relief from fire, flood, or other disasters. The site shall be exempt from the provisions of this chapter for a period of one year from the date of the placement of the house.

III. Installers shall have the option of installing manufactured housing in accordance with one of the following standards:

(a) New Hampshire installation standards as developed by the board.

(b) A design prepared by a registered professional engineer or architect for the site.

(c) The manufacturer's installation instructions, provided that such instructions meet or exceed the New Hampshire installation standards as developed by the board.

205-D:5 Inspectors.

I. The local enforcement agency, or if there is no local enforcement agency, the state fire marshal or the state fire marshal's designee, shall:

(a) Conduct appropriate inspections to ensure compliance throughout the state with installation practices consistent with the provisions of this statute and rules promulgated hereunder.

(b) Enter any premises on which an installation is being or has been completed subject to regulation under this chapter for the purpose of making such inspection as is necessary to carry out his or her duties under this chapter. Inspections shall be done prior to occupancy of the manufactured house.

(c) Order the correction of any violation of this chapter, or rule adopted under this chapter.

(d) Order any installer to discontinue installation until the violations are corrected.

(e) Approve the continuation of work on the installation upon being satisfied that violations have been corrected.

(f) Issue a certificate of compliance upon satisfaction that a manufactured house has been installed in compliance with this chapter and the rules promulgated under this chapter.

II. Whenever a local enforcement agency, or if there is no local enforcement agency, the state fire marshal or the state fire marshal's designee, orders the correction of a violation under subparagraph I(c), he or she shall immediately notify the board.

III. A certificate of compliance shall be required for occupancy.

IV. Any installer aggrieved under the provisions of this section may file a complaint in accordance with RSA 205-D:6.

205-D:6 Complaints.

I. A consumer, park owner, manufacturer, retailer, or installer of manufactured housing aggrieved or having a dispute regarding the installation of a manufactured house under the provisions of this chapter may file a complaint with the board.

II. All complaints shall be in writing and reviewed by the board.

III. To be accepted for filing, complaints shall be filed on a form provided by the board.

IV. All complaints shall be filed with the board within one year of the date of occupancy.

V. If the board determines that a complaint requires further investigation, it shall be acted upon within 60 days. The board shall establish procedures for expedited hearings on complaints where the circumstances set forth in the complaint warrant it.

VI. Upon confirmation that a complaint complies with this section, the board shall schedule a hearing on the complaint in accordance with the provisions of RSA 541-A.

VII. Disposition of all complaints shall be voted on by the board.

205-D:7 License Required. No person shall install any manufactured house subject to the provisions of this chapter without first obtaining a license from the board as required by this chapter.

205-D:8 Qualifications for License. The board shall issue a license to any applicant who at a minimum:

I. Has attained the age of 18;

II. Has 2 years experience as a manufactured housing installer or proves to the board's satisfaction equivalent installation experience;

III. Has successfully completed 6 hours of training on installation standards; and

IV. Complies with the requirements of RSA 205-D:10.

205-D:9 Bond Required.

I. The board shall not issue a license to any person unless the person has posted a surety bond in the amount of at least \$100,000, as determined by the board, or the equivalent in cash, marketable securities, letters of credit, or escrow accounts with the attorney general. The type of bond shall be designated by the attorney general. No surety bond shall be accepted unless it is with a surety company authorized to do business in this state. The surety may cancel the bond at any time upon giving 30 days' written notice to the attorney general.

II. Any person who is damaged by any violation of this chapter may bring an action against the bond or its equivalent to recover damages suffered and any other amounts allowable by law. The attorney general, in any action brought under this chapter or any other applicable provisions of the law, may likewise proceed against the bond or its equivalent.

205-D:10 Application for License.

I. Applications for licenses shall be made on forms adopted by the board.

II. Applications for licensure shall be accompanied by proof of the surety bond required by this chapter, and payment of the license fee.

III. The board may require each applicant to provide additional information about the applicant's background and trustworthiness as is reasonably necessary.

205-D:11 Expiration and Renewal.

I. All licenses issued by the board shall expire on the last day of the month of the licensee's birth, but may be renewed during the following month, retroactive to the first day of the month. Upon failure to pay the renewal fee within the required period, a licensee may renew his or her license by submitting the required fee plus \$10 before the last day of the second month following the month of his or her birth.

II. Persons licensed as installers are eligible for renewal of their licenses if they:

(a) Are not in violation of this chapter;

(b) Meet any requirements for continuing education established by the board in rules adopted pursuant to RSA 541-A; and

(c) Submit evidence that a surety bond required under RSA 205-D:9 is in force.

205-D:12 Fees.

I. The board may establish, pursuant to RSA 541-A, fees for licensure, license renewal, training, inspections conducted by the state fire marshal, and the manufacturer's warranty seal. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. The fee for the manufacturer's warranty seal shall not exceed \$50. If the fees collected through licensure, license renewal, training, and the manufacturer's warranty seal are not sufficient to produce revenue to carry out the responsibilities of the board and the responsibilities of the state fire marshal in conducting inspections under this chapter, then the board shall establish a fee for inspection which shall not exceed \$100.

II. The board shall establish fees for the first year of its operation based upon its estimate of expenses necessary to carry out the provisions of this chapter during that fiscal year. The comptroller



is authorized upon request of the department of safety to establish necessary budgetary components and operating accounts in the department and to transfer revenues received from the fees in this section and in RSA 205-D:11 to the department to carry out the responsibilities of the board and the responsibilities of the state fire marshal in conducting inspections under this chapter.

III. If an inspection is conducted by a local enforcement agency, the local enforcement agency may charge fees established pursuant to RSA 674:51, III(d).

**205-D:13 Disciplinary Action.**

I. The board may undertake disciplinary proceedings:

(a) Upon its own initiative; or  
(b) Upon a sworn written complaint of any person which charges that a person licensed by the board has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Conduct sufficient to support disciplinary proceedings under this section shall include, but is not limited to, any of the following:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this chapter.

(b) Willful or repeated violation of the provisions of this chapter.

(c) Suspension or revocation of a license, similar to one issued under this chapter, in another jurisdiction and which has not been reinstated.

III. The board may take disciplinary action in any one or more of the following ways:

(a) By reprimand.

(b) By suspension, limitation, or restriction of license for a period of up to 5 years.

(c) By revocation of license.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he or she has been found deficient.

(e) By imposing a fine not to exceed \$1,500 for each offense.

**205-D:14 Hearings.** The board shall take no disciplinary action without a hearing. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board. A hearing shall be held on all written complaints received by the board within 90 days of the date that notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

**205-D:15 Penalty.** Any person acting as an installer without a license, or violating any of the provisions of this chapter, shall be guilty of a class B misdemeanor.

**205-D:16 Consumer Protection Act.** Nothing in this chapter shall preclude an aggrieved party from seeking redress under RSA 358-A, the consumer protection act, for any unfair or deceptive trade practice committed relative to the installation of manufactured housing.

**205-D:17 Warranty Seal.** Before a manufactured house may be installed in this state, the manufacturer shall first obtain from the board a manufacturer's warranty seal and attach the seal to the manufactured house.

**205-D:18 Exemptions.**

I. Manufactured housing which is installed in compliance with this chapter shall be exempt from all state or local standards or regulations which regulate the same matters.

II. Nothing in this chapter shall be construed to amend or repeal the provisions of RSA 31:116, relative to manufactured housing foundations in parks, and RSA 47:22-b, relative to manufactured housing foundations in parks.

III. This chapter shall not apply to students engaged in a high school vocational program under the supervision of a licensed installer or as otherwise allowed by the board in its rules.

**205-D:19 Federal Funds and Other Funding Sources.** The board may seek and receive funds from the federal government and other public or private sources to further activities under this chapter, subject to the approval of the commissioner.

**205-D:20 Rulemaking Authority.** With the approval of the commissioner, the board shall be authorized pursuant to RSA 541-A, to adopt rules relative to:

I. The establishment of uniform manufactured housing installation standards.

II. The design and content of all forms and applications required under this chapter.

III. The application procedure for a license to practice under this chapter.

IV. The qualifications of license applicants set under this chapter.

V. How an applicant shall be trained, including the minimum education requirements and training standards.

VI. How a license to practice under this chapter shall be renewed, including any requirements for continuing education.

VII. The establishment of fees required under this chapter.

VIII. Ethical and professional standards required to be met by each holder of a license to practice under this chapter and how disciplinary actions by the board shall be implemented for violations of these standards.

IX. The establishment of complaint procedures including investigations and expedited hearings procedures.

X. Procedures for the conduct of hearings consistent with the requirements of due process.

XI. The establishment of a program for the timely resolution of disputes between manufacturers, retailers, and installers of manufactured housing regarding responsibility, for the issuance of appropriate orders, for the correction or repair of defects in manufactured houses that are reported during the one year period following the date of installation.

2 Rulemaking Required. On or before July 1, 2005, the installation standards board established in section 1 of this act shall adopt rules under RSA 541-A as provided in RSA 205-D:20.

3 Applicability. To allow time for the establishment of the installation standards board and for implementation of this act, no installers shall be required to be licensed pursuant to this act until 90 days after the board has adopted rules.

4 Effective Date. This act shall take effect 30 days after its passage.

#### **SB 482-FN, relative to captive insurance companies and reciprocal insurers. REFER FOR INTERIM STUDY**

Rep. Leo W. Fraser, Jr. for Commerce: This bill was introduced on behalf of the New Hampshire Insurance Department. The intent is to establish laws governing captive insurance companies and reciprocal insurers. A captive insurance company is defined as any legal association of individuals, corporations, partnerships or associations that have been in continuous existence for at least one year. A reciprocal insurer is a pool mechanism for a group or individuals that agree to indemnify each other through an attorney-in-fact, common to all such persons. Because of the complexity of possible tax implications of either a captive or a reciprocal, the committee has recommended that the bill be referred to Interim Study. Vote 11-0.

#### **SB 312-FN, establishing a state code of ethics. OUGHT TO PASS WITH AMENDMENT**

Rep. Michael O'Neil for Executive Departments and Administration: This bill establishes a code of ethics in state law for public employees and public officials working in the executive branch. The bill prohibits participation in matters in which employees and officials have a private interest or in which they might personally or financially benefit. The bill requires public disclosure of certain contributions and gifts. It also requires a financial disclosure to be filed with the Secretary of State to ensure that the performance of official duties does not give rise to a conflict of interest. Any person who violates the provisions of the code of ethics shall be guilty of a misdemeanor and may be subject to employment termination. The person shall also be required to make restitution. Vote 17-1.

#### **Amendment (1285h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subdivision; Code of Ethics. Amend RSA 21-G by inserting after section 20 the following new subdivision:

#### **Code of Ethics**

21-G:21 Definitions. In this subdivision:

I "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

III. "Gift" means any money or thing of value received in excess of \$50 or in excess of \$250 in aggregate from any single source during any calendar year. Gift shall not include contributions

as defined in RSA 664; a commercially reasonable loan made in the ordinary course of business; meals and beverages consumed in the course of official business; ceremonial gifts or awards which have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; reasonable expenses for food, travel, and lodging for an in-state meeting at which the elected official or public employee participates in a panel or a speaking engagement; gifts of tickets or free admission extended to an elected official to attend charitable or political events, if the purpose of such gift or admission is a courtesy customarily extended to the office; gifts that are purely private and personal in nature; or gifts from relatives by blood or marriage, or a member of the same household.

IV. "Public employee" means any person, including but not limited to a classified employee, who is acting on behalf of the governor or an agency while engaged in state business.

V. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

21-G:22 Conflict of Interest. Public employees and public officials shall avoid conflicts of interest. Public employees and public officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:23 Misuse of Position. No public official and no public employee shall disclose or use confidential or privileged information for personal benefit or for financial gain. Public officials and public employees shall not use their positions with the government to secure privileges or advantages for themselves, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. A public official or a public employee who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a financial contribution or other form of political contribution from an entity which is or is likely to become subject to that public official's or public employee's duties shall make a disclosure of such contributions to the secretary of state within 5 days of receipt of such contributions. The disclosure shall be in writing and on such form as the secretary of state shall prescribe.

21-G:25 Acceptance and Giving of Gifts. Any public employee, public official, and any public employee's or public official's spouse or dependent, who gives, solicits, accepts or agrees to accept a gift from a person who is subject to or likely to become subject to or interested in, any matter or action pending before or contemplated by the public employee or official or by the governmental body with which that employee or official is affiliated shall disclose the gift in the statement of financial disclosure filed under RSA 21-G:27. Nothing in this section shall be construed to prohibit gifts made to the state of New Hampshire and accepted in accordance with the law.

21-G:26 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethics code to address issues specific to that agency. In the event of a conflict, the provisions of this code shall supersede the agency code. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement.

21-G:27 Financial Disclosure.

I.(a) To ensure that the performance of official duties does not give rise to a conflict of interest, the following public officials shall file with the secretary of state a statement of financial disclosure in such form as the secretary of state may prescribe:

(1) All agency heads; and

(2) Any public official designated, due to the responsibilities of the position, by the agency head.

(b) The agency head shall file with the secretary of state an organizational chart identifying the names, titles, and position numbers of officials required to file a statement of financial disclosure.

II. The initial statements of financial disclosure and organizational charts required under this section shall be filed by July 1, 2005. Thereafter, revised statements of financial disclosure and organizational charts shall be filed immediately upon any change of status. New agency heads shall file a statement of financial disclosure no later than the first day of service.

III. Statements of financial disclosure and organizational charts filed with the secretary of state shall be public documents.

## 21-G:28 Penalty.

I. Any person who violates this subdivision shall be guilty of a misdemeanor and may be subject to termination.

II. In the case of any person convicted under this section, the court shall order restitution.

2 Effective Date. This act shall take effect January 1, 2005.

**SB 375**, relative to the regulation of physician assistants. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill is a melding of HB 1406 and SB 375 and contains the following: (1) A clarification of license renewal. A license shall not expire until the board has taken final action upon the application for renewal that was promptly submitted. The bill allows for renewal of an expired license with double renewal fees if renewed within 90 days. Lapse of license can concur if more than 90 days pass with a reinstatement fee set by the board. Such penalty shall not apply if a licensee is called to active duty. (2) A review of the grounds for discipline and disciplinary options available to the board. (3) An extension of the term of service on the Physicians Assistants Advisory Committee from 2 to 3 years. (4) A provision for a "Good Samaritan" protection. (5) Repeal of temporary licenses and interviews for physician assistant applicants by the advisory committee. Vote 18-0.

**Amendment (1358h)**

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; Condition for Licensure. Amend RSA 328-D:3, I by inserting after subparagraph (c) the following new subparagraph:

(d) Demonstrate that the applicant has good character.

2 New Paragraph; Conditions for Licensure. Amend RSA 328-D:3 by inserting after paragraph II the following new paragraph:

III. Circumstances that exist which would be grounds for disciplinary action under RSA 328-D:6 may be grounds for denial of a license.

3 License Renewal. Amend RSA 328-D:5 to read as follows:

328-D:5 Renewal of Licenses. Every person licensed to practice under this chapter shall apply to the board for annual renewal of license on forms provided by the board and shall pay a renewal fee as established by the board. Applications for renewal shall be filed no later than December 31 of each year and shall include a photocopy of the applicant's current national certification card. *A license issued under this chapter shall not expire until the board has taken final action upon the application for renewal.*

4 New Section; Failure to Apply for Renewal. Amend RSA 328-D by inserting after section 5 the following new section:

328-D:5-a Failure to Renew; Lapse.

I. Any licensee who fails to apply for renewal under RSA 328-D:5 shall pay double the renewal fee, provided the licensee applies and pays the renewal fee no later than 90 days after the expiration date. Any licensee who fails to apply for renewal of his or her license within the 90 day period after expiration, shall have their license lapse. A lapsed license shall be reinstated only upon payment of a reinstatement fee as established by the board, and upon showing evidence of professional competence as the board may reasonably require.

II. If a license expires or lapses as a result of a licensee being ordered to active duty with the armed services, the licensee shall have 90 days from the date of discharge or release from the armed service to apply for renewal and all late fees shall be waived.

5 Grounds for Discipline. RSA 328-D:6 is repealed and reenacted to read as follows:

328-D:6 Grounds for Discipline. The board, after hearing, may take action against any person licensed under this chapter upon finding that the licensee:

I. Has knowingly provided false information on any application for professional licensure, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application.

II. Is a habitual user of drugs or intoxicants or is afflicted with a physical disability, insanity, psychiatric disorders, or other disease deemed dangerous to the public health.

III. Has displayed a pattern of behavior which is incompatible with the basic knowledge and competence expected of persons in the practice of his or her profession.

IV. Has engaged in dishonest or unprofessional conduct or has been grossly or repeatedly negligent in practicing his or her profession or in performing activities ancillary to the practice of his or her profession or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing his or her profession or performing such ancillary activities.

V. Has undertaken to practice independent of the referral or prescription, direction, or supervision of a physician licensed under RSA 329.

VI. Has failed to provide adequate safeguards with regard to aseptic techniques or radiation techniques.

VII. Has included in advertising any statement of a character tending to deceive or mislead the public or any statement claiming professional superiority.

VIII. Has advertised the use of any drug or medicine of an unknown formula or any system of anesthetic that is unnamed, misnamed, misrepresented, or not in reality used.

IX. Has willfully or repeatedly violated any provision of this chapter or any substantive rule of the board.

X. Has been convicted of a felony under the laws of the United States or any state.

XI. Has failed to maintain adequate medical record documentation on diagnostic and therapeutic treatment provided or has unreasonably delayed medical record transfer, or violated RSA 332-I.

6 Disciplinary Action. RSA 328-D:7 is repealed and reenacted to read as follows:

328-D:7 Disciplinary Action. The board, upon making an affirmative finding under RSA 328-D:6, may take disciplinary action in any one or more of the following ways:

I. Administer a public or private reprimand.

II. Revoke, suspend, limit, or otherwise restrict a license.

III. Require the physician assistant to submit to the care, counseling or treatment of a physician, counseling service, health care facility, professional assistance program, or any combination thereof which is acceptable to the board.

IV. Place the physician assistant on probation.

V. Require the physician assistant to participate in a program of continuing education in the area or areas in which he or she has been found deficient.

VI. Assess administrative fines in amounts established by the board which shall not exceed \$3,000 per offense, or, in the case of continuing offenses, \$300 for each day that the violation continues, whichever is greater.

7 Appeals. RSA 328-D:8 is repealed and reenacted to read as follows:

328-D:8 Appeals. Disciplinary action taken by the board under RSA 328-D:7 may be appealed to the supreme court under RSA 541.

8 Physicians Assistants; Advisory Committee. Amend the introductory paragraph of RSA 328-D:9 to read as follows:

There is hereby established a committee who shall serve in an advisory capacity to the board. The committee shall consist of 2 physician assistants licensed under this chapter and nominated by the New Hampshire Society of Physician Assistants and 2 physicians, licensed under RSA 329, who shall have supervised physician assistants in their practice. The committee members shall be appointed by the board for a term of [2] 3 years[; ~~except that initially one physician assistant and one physician shall serve one-year terms~~]. No committee member shall serve more than 2 consecutive terms. A vacancy shall be filled in the same manner, but only for the unexpired term. Members of the committee shall receive \$50 per day and their expenses when attending to their duties. The committee shall:

9 Penalty. RSA 328-D:13 is repealed and reenacted to read as follows:

328-D:13 Penalty. Any person who, not being licensed or otherwise authorized according to the law of this state, shall advertise oneself or hold oneself out as a physician assistant, or any person who does such act after receiving notice that such person's license has been revoked, shall be guilty of a misdemeanor.

10 New Section; Limitation on Action. Amend RSA 328-D by inserting after section 13 the following new section:

328-D:14 Limitation on Action. A person, licensed or authorized to practice as a physician assistant under this chapter or under the laws of any other state, who, in good faith, renders emergency care at the scene of an emergency, shall not be liable for any civil damages as a result of acts or omissions by such person in rendering such emergency care, or as a result of any act or failure to act to provide or arrange for further medical treatment or care, as long as such person receives no direct compensation for the care from or on behalf of the person cared for.

11 Repeal. The following are repealed:

I. RSA 328-D:4, relative to temporary licensure.

II. RSA 328-D:9, IV, relative to advisory committee interviews of physician assistant applicants.

12 Effective Date. This act shall take effect December 31, 2004.

**SB 445**, relative to the regulation of dietitians by the board of licensed dietitians. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: This bill adds to the list of duties and rulemaking authority of the board. It establishes various appropriate disciplinary actions available to the board for dealing with licensees involved in violation of the code of ethics and other provisions of this chapter. It establishes fees for licenses, renewals and reinstatement of licenses. The bill also contains a clarification of license renewal: a license shall not expire until the board has taken final action upon the application for renewal that was promptly submitted. The bill finally makes provisions for "providing an opportunity for" a hearing before taking disciplinary action and spells out the appropriate penalty for various infractions. Vote 17-2.

**Amendment (1334h)**

Amend the bill by replacing all after section 4 with the following:

5 Issuance, Expiration, and License Renewal. Amend RSA 326-H:14, II to read as follows:

II. All licenses issued by the board shall be valid for 2 years from the date of issuance and shall be renewed biennially or reissued pursuant to rules adopted and upon payment of fees established by the board. The board shall cause notification of impending license expiration to be sent to each licensed person at least 60 days prior to the expiration of the license. *Licenses shall continue as valid until final action is exercised by the board on an application for renewal, provided that the application is filed before the expiration date of the license.*

6 Licensed Dietitians; Penalties. RSA 326-H:16 is repealed and reenacted to read as follows:

326-H:16 Suspension and Revocation of License. The board, after providing an opportunity for a hearing, may take appropriate disciplinary action as follows:

I. Suspend or revoke the license if the person has obtained the license by fraudulent or deceitful means.

II. Suspend or revoke the license if the person has been convicted of a class A felony or found guilty of malpractice or gross misconduct in practice as a dietitian.

III. Suspend or revoke if by reason of negligent habits, neglect, willful action, or other causes engaged in actions inconsistent with the health of the person or persons under the care of the licensee.

IV. Take appropriate disciplinary action such as suspension, revocation, penalties, sanctions, additional training or other requirements for all other violations of this chapter, and the rules and code of ethics adopted by the board.

7 Hearings. Amend RSA 326-H:17, I to read as follows:

I. The board shall take no disciplinary action without *providing an opportunity for a hearing*. At least 14 days prior to hearing, both parties to a disciplinary proceeding shall be served, either personally or by registered mail, with a written copy of the complaint filed and notice of the time and place for hearing. All complaints shall be objectively received and fairly heard by the board, but no complaint shall be acted upon unless in writing. A hearing shall be held on all written complaints received by the board within 3 months of the date notice of a complaint was received by the accused, unless otherwise agreed to by the parties. Written notice of all disciplinary decisions made by the board shall be given to both parties to the proceeding upon their issuance.

8 Effective Date. This act shall take effect 60 days after its passage.

**SB 324-FN-A-L**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. **OUGHT TO PASS WITH AMENDMENT**

Rep. Fran Wendelboe for Finance: SB 324 remains the same as amended by the House after the estate tax issue was removed. The Finance Committee amendment makes technical corrections to the method of calculating utility property in determining a municipality's tax base for the purpose of the statewide enhanced education tax. This addresses assessment issues with the Londonderry generating plant. Vote 15-0.

**Amendment (1412h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Statewide Enhanced Education Tax; Commissioner's Warrant. RSA 76:8, I is repealed and reenacted to read as follows:

I. (a) The commissioner shall annually determine a municipality's tax base for the statewide enhanced education tax by subtracting from the total equalized valuation of all property, as determined under RSA 21-J:3, XIII for the preceding year, property that was then taxable under RSA 82 and RSA 83-F. In determining the tax base, the value of any utility property that was not taxable under RSA 83-F in the preceding year but is taxable under RSA 83-F in the current year shall also be subtracted, provided the sum value represents at least 5 percent of the total equalized value of all property, except property taxable under RSA 82 or RSA 83-F in the preceding year.

(b) The commissioner shall calculate the portion of the statewide enhanced education tax to be raised by each municipality by multiplying the uniform education property tax rate by the municipality's tax base.

2 Statewide Enhanced Education Tax; Version Effective July 1, 2004. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. An annual statewide enhanced education tax at the uniform rate of \$3.24 on each \$1,000 of the value of taxable property, *except property subject to tax under RSA 82 and RSA 83-F*, is hereby imposed on all persons and property taxable pursuant to ~~[RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F]~~ **RSA 76:8**.

3 Statewide Enhanced Education Tax; Version Effective July 1, 2005. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on ~~[the most recent available state equalized valuation, and such rate shall be imposed on all]~~ persons and property taxable pursuant to ~~[RSA 72 and RSA 73,]~~ **RSA 76:8**, except property subject to tax under RSA 82 and RSA 83-F. The commissioner of the department of revenue administration shall set the rate which shall be effective for the fiscal year in which the calculation is made.

4 Real Estate Transfer Tax; Manufactured Housing. Amend the introductory paragraph of RSA 78-B:4, IV to read as follows:

IV. Notwithstanding any other provision of this chapter to the contrary, the following subparagraphs shall govern payment of transfer taxes where the real estate consists of manufactured housing, *as defined by RSA 674:31*:

5 Penacook Defined As Municipality; Commissioner's Warrant; Statewide Enhanced Education Tax. The term "municipality" as used in RSA 76:8, I shall be defined to include the Penacook section of the city of Concord.

6 Effective Date.

I. Sections 1 and 2 of this act shall take effect July 1, 2004 at 12:01 a.m. and shall apply to all tax years beginning on or after April 1, 2004.

II. Section 3 of this act shall take effect July 1, 2005 at 12:01 a.m.

III. The remainder of this act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill:

I. This bill amends the method of calculating utility property in determining a municipality's tax base for the purpose of the statewide enhanced education tax.

II. Changes criteria for taxability of transfers of manufactured housing under the real estate transfer tax.

III. Defines the Penacook section of Concord to be a municipality for purposes of calculation of the commissioner's warrant for the statewide enhanced education tax.

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: This bill is about the recovery by the retirement system of the overpayment of benefit amounts and relative to the medical benefits for disabled group II members. This part of the bill passed ED&A and was unchanged by the Finance Committee. There are sufficient assets in the special accounts of the retirement system to cover its costs with no impact to the general fund. The Finance Committee amendment is relative to judicial retirement and ful-

fills the requirement that the state must meet in order to be in compliance with Internal Revenue Code 401 and receive the necessary letter of approval from the Department of Treasury. There is no cost to the general fund. Vote 21-0.

### Amendment (1396h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.

Amend the bill by replacing section 3 with the following:

3 Judicial Retirement Plan; Definitions; Actuarial Equivalent. Amend RSA 100-C:1, II to read as follows:

II. "Actuarial equivalent" means a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the board of trustees. *The actuarial equivalent shall be based upon an interest rate assumption of 6 percent, and the 1971 Group Annuity Mortality Table (males) for members and the 1971 Group Annuity Mortality Table (males) set back 6 years for spouses or beneficiaries. For purposes of determining the present value of a lump sum payment, the applicable interest rate is the annual interest rate on 30-year Treasury securities for the month before the date of distribution or such other time as the United States Secretary of the Treasury may prescribe by regulations and the applicable mortality table is the mortality table prescribed by the Secretary of the Treasury which shall be based on the prevailing commissioners' standard table as described in Internal Revenue Code Section 807(d)(5)(A) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined. Any changes must be approved by the board of trustees.*

4 Judicial Retirement Plan; Definitions; Earnable Compensation. Amend RSA 100-C:1, VII to read as follows:

VII. "Earnable compensation" means a member's annual salary. *The annual compensation that may be taken into account in determining contributions to a member or the benefit of a member may not exceed \$150,000, or such greater amount as permitted under Section 401(a)(17) of the Internal Revenue Code.*

5 New Paragraph; Judicial Retirement Plan; Return of Contributions; Rollover. Amend RSA 100-C:8 by inserting after paragraph IV the following new paragraph:

V. A distributee may elect, in a time and manner prescribed in rules of the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For purposes of this paragraph:

(a) "Distributee" means a member or former member, or spouse of a member or former member.

(b) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, a qualified trust described in Section 401(a) of the Internal Revenue Code, or an eligible 457(b) deferred compensation plan maintained by an eligible employer, that accepts the distributee's eligible rollover distribution.

(c) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution shall not include any distribution that is one of a series of substantially equal periodic payments, not less frequently than annually, made for the life, or life expectancy, of the distributee or the joint lives, or joint life expectancies, of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and any distribution which is made upon hardship of the distributee.

6 Maximum Benefit Limitations. Amend RSA 100-C:10 to read as follows:

100-C:10 Maximum Benefit Limitations.

I. Notwithstanding any other provisions of this chapter, the maximum benefit payable to any retired member or beneficiary of the New Hampshire judicial retirement plan shall be limited to such extent as may be necessary to conform to the requirements of sections 401(a)(9) and 415 of the United States Internal Revenue Code of 1986 for a qualified retirement plan.



*II.(a) In accordance with Section 401(a)(9) of the Internal Revenue Code, distribution of the member's contributions shall commence by the April 1 following the later of the calendar year in which the participant attains age 70-1/2 or retires. Actuarial increases shall be provided for a member who retires in a calendar year after the calendar year in which the participant attains age 70-1/2, for the period after age 70-1/2 in which the member was not receiving any benefits under the plan.*

*(b) When the distribution of the member's entire interest is not made in a lump sum, the distribution shall be made in one or more of the following ways:*

*(1) Over the life of the member;*

*(2) Over the life of the member and a designated beneficiary;*

*(3) Over a period certain not extending beyond the life expectancy of the member; or*

*(4) Over a period certain not extending beyond the joint life and last survivor expectancy of the member and a designated beneficiary.*

*(c) If distribution has commenced before the member's death, the remaining interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of the member's death.*

*(d) If the member dies before distribution commences, any remaining portion of the member's interest that is not payable to a beneficiary designated by the member shall be distributed within 5 years after the member's death, and any portion of the member's interest that is payable to a beneficiary designated by the member shall be distributed either within 5 years after the member's death, or over the life of the beneficiary or over a period certain not extending beyond the life expectancy of the beneficiary, commencing not later than the end of the calendar year following the calendar year in which the member died, or if the designated beneficiary is the member's surviving spouse, commencing not later than the end of the calendar year in which the member would have attained age 70-1/2.*

*(e) Distributions from the plan shall be made in accordance with the requirements of the regulations under Internal Revenue Code section 401(a)(9), including the minimum distribution incidental benefit requirements.*

7 Judicial Retirement Board of Trustees; Investing and Managing Assets. Amend RSA 100-C:12, III to read as follows:

**III. *The contribution shall be used for the exclusive benefit of members and their beneficiaries and in no event shall revert to the state unless the reversion is due to a good faith mistake of fact or law.*** The board may return a member or state contribution, or make alternative arrangements for reimbursement, if the board determines the contribution was made because of a mistake of fact or law.

8 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill allows the board of trustees of the retirement system to recover the overpayment of benefit amounts which were paid after the death of a retiree or beneficiary or after the remarriage of a surviving spouse.

This bill extends the year of eligibility of group II disabled members for the payment of medical benefits costs by the retirement system.

This bill also makes technical changes to the judicial retirement plan relating to managing assets, required distributions, compensation limits, rollover of returned contributions, and actuarial assumptions.

**SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members. **ought to PASS WITH AMENDMENT**

Rep. Robert L. Wheeler for Finance: This bill allows political subdivision employees who participated in a local retirement plan to purchase prior service credits in the New Hampshire Retirement System, removes the artificial time barriers to purchase past service, and limits additional contributions to those made prior to July 1, 2004. If this bill passes people who work for the Towns of Bedford, Rye and Merrimack and were members of their local retirement can buy prior service in the New Hampshire Retirement System. Those who have gone beyond five years from the mo-

ment of eligibility to purchase prior service may now purchase that service whenever it becomes convenient. All of these transactions are financially neutral to the New Hampshire Retirement System, the State of New Hampshire and its political subdivisions. Vote 20-0.

#### **Amendment (1398h)**

Amend the bill by replacing all after section 5 with the following:

6 Applicability. Notwithstanding section 2 of this act, any New Hampshire retirement system member who was making additional contributions under RSA 100-A:16, I(c) prior to July 1, 2004 or who applied to make additional contributions under RSA 100-A:16, I(c) prior to July 1, 2004 may continue to make additional contributions after July 1, 2004.

7 Effective Date. This act shall take effect July 1, 2004.

**SB 352-FN-L**, relative to computing school building aid grant amounts. **OUGHT TO PASS**  
Rep. Robert K. Dodge for Finance: This legislation will exclude funds received from trusts, bequests, gifts and insurance policies, for purposes of eligibility for school building aid when computing building aid grants. Previously they were only ineligible if they were transferred into a capital reserve. Although this may be a rare occurrence it is predicted to save \$65,500 yearly. Vote 21-0.

**SB 409-FN**, revising the vocational school licensing statutes. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elizabeth S. Hager for Finance: The financial aspect of this bill involves changing the licensing fee for career schools from a flat rate to a rate prorated on gross revenue. The Finance Committee approves of this. The bill also changes the requirement that each licensed school maintain a surety bond for reimbursing tuition if the school should close. By creating a fund within the Treasurer's office, initially funded by the schools, there will be long-term savings to all of the schools and an incentive to seek a license. Vote 21-0.

#### **Amendment (1411h)**

Amend RSA 188-D:20, I as inserted by section 2 of the bill by replacing it with the following:

I. Prior to registering or renewing a business or trade name, or soliciting students for enrollment, an entity maintaining a physical presence in this state shall be reviewed by the postsecondary education commission to determine if the entity requires a license. The executive director, in consultation with the postsecondary education commission, shall establish procedures to accomplish this review.

Amend the bill by replacing all after section 4 with the following:

5 New Subparagraph; Application of Receipts; Student Tuition Guaranty Fund. Amend RSA 6:12, I (b) by inserting after subparagraph (227) the following new subparagraph:

(228) Moneys deposited in the student tuition guaranty fund established in RSA 188-D:20-b.

6 Contingent Repeal. RSA 188-D:20-a, relative to the provision of a surety bond, is repealed.

7 Certification by Executive Director of the Postsecondary Education Commission. Section 6 of this act shall take effect upon written certification by the executive director of the postsecondary education commission to the secretary of state and the director of legislative services that the balance in the student tuition guaranty fund established in RSA 188-D:20-b is sufficient to provide fund participants with a satisfactory level of coverage.

8 Effective Date.

I. Sections 1-4 of this act shall take effect 60 days after its passage.

II. Section 6 of this act shall take effect as provided in section 7 of this act.

III. The remainder of this act shall take effect upon its passage.

**SB 411-FN-L**, relative to liability for special education transportation costs. **REFER FOR INTERIM STUDY**

Rep. Kenneth L. Weyler for Finance: The purpose of this bill was to ensure reimbursement to districts for transportation costs for special education students. These payments have had a complicated past. Prior to 2003 the adequate education grant included 70% of transportation costs. An audit in 2003 pointed out that schools were accepting transportation costs under adequacy and then billing catastrophic aid for full costs. This caused a double counting and a \$2 million error for special education transportation. Also complicating the payment system are the facts that adequacy

grants get paid to towns two years after the cost is incurred while catastrophic aid payments get paid to school districts one year after the cost is incurred. To further confuse this issue is the lack of decision on future school payments and likely formula changes. The Finance Committee would like extra time to settle all the variables in this issue and incorporate the study with HB 612, catastrophic aid, which is also in interim study. Vote 23-0.

**SB 436-FN-L**, relative to the Claremont and Newport district courts. **OUGHT TO PASS WITH AMENDMENT**

Rep. MaryAnn N. Blanchard for Finance: As amended, this bill delays the consolidation of the Claremont and Newport district courts until 2006. After hearing testimony the committee was convinced that each court would like to maintain separate facilities and will strive to do so within the given time frame. Both Newport and Claremont are already negotiating and exploring upgrades of their courts. Should the towns fail to meet the deadlines, the required consolidation of these courts will proceed. Separating these courts as a matter of law on July 1, 2004 would have no fiscal impact since amounts are already contained in FY 04, 05 state operating budget for lease payments for two separate court houses. Vote 22-0.

**Amendment (1397h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The general court finds that it is the desire of both the city of Claremont and the town of Newport that each community have its own district courthouse, and the intent of this act is not to combine the courts into one facility in Claremont.

2 Claremont District Court. RSA 502-A:1, XXVII is repealed and reenacted to read as follows:

XXVII. CLAREMONT DISTRICT. The Claremont district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, and Plainfield. The district court for the district shall be located in Claremont, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Claremont District Court.

3 New Paragraph; Newport District Court. Amend RSA 502-A:1 by inserting after paragraph XXVII the following new paragraph:

XXVII-a. NEWPORT DISTRICT. The Newport district shall consist of the towns of Newport, Grantham, Croydon, Springfield, Goshen, Sunapee, Lempster, and Washington. The district court for the district shall be located in Newport, holding sessions regularly therein and elsewhere in the district as justice may require. The name of the court shall be Newport District Court.

4 Claremont-Newport District. RSA 502-A:1, XXVII is repealed and reenacted to read as follows:

XXVII. CLAREMONT-NEWPORT DISTRICT. The Claremont-Newport district shall consist of the city of Claremont and the towns of Cornish, Unity, Charlestown, Acworth, Langdon, Plainfield, Newport, Grantham, Croydon, Springfield, Sunapee, Goshen, Lempster, and Washington. The court shall be located in a city or town within the judicial district in a location and facility designated pursuant to RSA 490-B:3, having regard for the convenience of the communities within the district, provided, however, that the court shall not be located in any building which does not meet the minimum standard prescribed by the New Hampshire court accreditation commission pursuant to RSA 490:5-c. The court shall bear the name of the city or town in which it is located.

5 Repeal. RSA 502-A:1, XXVII-a, relative to the Newport district court, is repealed.

6 Contingency. If the department of administrative services and the city and towns in the Claremont and Newport districts cannot reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 4 and 5 of this act shall take effect July 1, 2006. If the department of administrative services and the city and towns in the Claremont and Newport districts reach an agreement on acceptable courthouse facilities and funding for courthouse facilities for each district on or before June 30, 2006, sections 4 and 5 of this act shall not take effect.

7 Effective Date.

I. Sections 4 and 5 of this act shall take effect as provided in section 6 of this act.

II. The remainder of this act shall take effect July 1, 2004.

**AMENDED ANALYSIS**

This bill prevents the consolidation of the Claremont and Newport district courts, if certain conditions are met regarding court facilities.

**SB 504-FN**, relative to disbursements from the alcohol abuse prevention and treatment fund. **OUGHT TO PASS**

Rep. Edward D. Densmore for Finance: Current law specifies that one-half of the funds disbursed from the Alcohol Abuse Prevention and Treatment Fund be used for education and prevention activities. This bill suspends that requirement for one year only, and allows the Commission to award funding to the most logical applicant given current fiscal constraints. While for the long term the Committee does not want to abandon current policy, it supports putting the treatment programs ahead of prevention programs when dollars are scarce. Vote 22-0.

**SB 423**, relative to confidentiality and workers' compensation. **OUGHT TO PASS WITH AMENDMENT**

Rep. Harry M. Haytayan for Judiciary: This bill grants the Department of Labor statutory authority to protect the confidentiality of the names, addresses and medical records of workers' compensation claimants, while protecting the public's right to know. The bill will protect the claimants from the disclosure of private information. Vote 13-2.

**Amendment (1239h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Records of the Department of Labor; Workers' Compensation. Amend RSA 273:5 to read as follows:

273:5 Records.

*I. The records of [said] the department of labor shall be public records open to the inspection of any person interested.*

*II. Notwithstanding paragraph I or any other provision of law to the contrary, the department of labor shall maintain the confidentiality of the names, addresses, and medical records of workers' compensation claimants.*

2 Effective Date. This act shall take effect upon its passage.

**AMENDED ANALYSIS**

This bill requires certain information regarding workers' compensation cases to remain confidential.

**SB 509-FN**, relative to civil recoveries for false claims paid or approved by the department of health and human services. **OUGHT TO PASS WITH AMENDMENT**

Rep. Gregory M. Sorg for Judiciary: This bill, as amended, would replace Section 61 of the Public Assistance Law, RSA 167, by more specifically defining what constitutes fraud and false claims under the Medicaid program, and prescribing both the procedures for bringing, pursuing and defending against recovery actions, and the penalties for committing them. It would take effect on January 1, 2005, while the present RSA 167:61 would not sunset until January 1, 2010, by which time the statute of limitations for bringing actions for violations under it will have expired. Vote 14-0.

**Amendment (1401h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Subdivision Heading. Amend the subdivision heading preceding RSA 167:58 to read as follows: Medicaid Fraud *and False Claims*

2 New Sections; False Claims Against Department of Health and Human Services. Amend RSA 167 by inserting after section 61-a the following new sections:

167:61-b False Claims Against the Department; Definitions.

1. Any person shall be liable to the state for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages that the state sustains because of the act of that person, who:

(a) Knowingly presents, or causes to be presented, to an officer or employee of the department, a false or fraudulent claim for payment or approval.

(b) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the department.

(c) Conspires to defraud the department by getting a false or fraudulent claim allowed or paid.

(d) Has possession, custody, or control of property or money used, or to be used, by the department and, intending to defraud the department or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt.

(e) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the department.

(f) Is a beneficiary of an inadvertent submission of a false claim to the department, who subsequently discovers the falsity of the claim, and fails to disclose the false claim to the department within a reasonable time after discovery of the false claim.

II.(a) Notwithstanding the damages provisions of paragraph I, the court may assess not less than 2 or more than 3 times the amount of damages that the state sustains because of the act of the person and no civil penalty, if the court finds that a person who has violated paragraph I:

(1) Furnished officials of the state responsible for investigating false claims violations with all information known to the person about the violation within 30 days after the date on which the defendant first obtained the information;

(2) Fully cooperated with any state investigation of such violation; and

(3) At the time the person furnished the state with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this chapter with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation.

(b) A person violating paragraph I shall also be liable to the state for the costs and attorneys' fees arising from any civil action brought to recover the penalty or damages.

III. Liability under this section shall be joint and several for any act committed by 2 or more persons.

IV. This section shall not apply to any controversy involving damages to the department of less than \$5,000 in value. For purposes of this paragraph, "controversy" means the aggregate of any one or more false claims submitted by the same person.

V. In RSA 167:61-b through RSA 167:61-e:

(a) "Claim" means any request or demand, whether under a contract or otherwise, for money or property that is made to an officer, employee, agent, or other representative of the department or to a contractor, grantee, or other person, if the department provides any portion of the money or property that is requested or demanded, or if the department will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(b)(1) "Knowing" and "knowingly" means that a person, with respect to information:

(A) Has actual knowledge of the information;

(B) Acts in deliberate ignorance of the truth or falsity of the information; or

(C) Acts in reckless disregard of the truth or falsity of the information.

(2) No proof of specific intent to defraud is required for an act to be knowing.

(c) "Original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the state before filing an action under RSA 167:61-c that is based on the information, and whose information provided the basis or catalyst for the investigation, hearing, audit, or report that led to the public disclosure.

(d) "Person" means any natural person, corporation, firm, association, organization, partnership, business, or trust.

(e) "Relator" means an individual who brings an action under RSA 167:61-c.

VI. In any action brought under RSA 167:61-c, the state shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

VII. An action for false claims under RSA 167:61-c shall not be brought:

(a) More than 6 years after the date on which the violation of RSA 167:61-b is committed; or

(b) More than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the official within the office of the attorney general charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

167:61-c Actions by Attorney General and Private Persons.

I. The attorney general shall investigate violations under RSA 167:61-b. If the attorney general finds that a person has violated or is violating RSA 167:61-b, the attorney general may bring a civil action in superior court against the person.

II.(a) An individual, hereafter referred to as "relator," may bring a civil action for a violation of RSA 167:61-b, I on behalf of the relator and for the state. The action shall be brought in the name of the state.

(b) When a relator brings an action under this section, no person other than the state may intervene or bring a related action based on the facts underlying the pending action.

(c) A copy of the complaint and written disclosure of substantially all material evidence and information the relator possesses shall be served on the state in accordance with the New Hampshire rules of civil procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The state may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

(d) The state may, for good cause shown, move the court for one or more extensions of the 60-day time period during which the complaint shall remain under seal. Any such motion may be supported by affidavits or other submissions filed under seal.

(e) Before the expiration of the 60-day period or any extension obtained, the state shall:

(1) Proceed with the action, in which case the action shall be conducted by the state; or

(2) Notify the court that it declines to take over the action, in which case the action shall be dismissed.

III. The defendant shall not be required to respond to any complaint filed under this section until after the complaint is unsealed and served upon the defendant in accordance with the New Hampshire rules of civil procedure.

IV. Notwithstanding any provision of RSA 275-E to the contrary, any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the superior court for the relief provided in this paragraph. For purposes of this paragraph, "employee" has the same meaning as in RSA 275-E:1, I.

#### 167:61-d Parties to Actions.

I. If the state proceeds with an action under RSA 167:61-c, the state shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the relator bringing the action. The relator shall have the right to continue as a party to the action, subject to the following limitations:

(a) The state may dismiss the action notwithstanding the objections of the relator initiating the action if the court determines, after a hearing on the motion, that dismissal should be allowed.

(b) The state may settle the action with the defendant notwithstanding the objections of the relator initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be held in camera.

II. Notwithstanding RSA 167:61-c, the state may elect to pursue its claim through any alternate remedy available to the state, including any administrative proceeding to determine a civil monetary penalty. If any such alternate remedy is pursued in another proceeding, the relator initiating the action shall have the same rights in the proceeding as the relator would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section.

III. The parties to the action shall receive court approval of any settlements reached.

#### 167:61-e Award to Relator.

I. If the state proceeds with an action brought by a relator under RSA 167:61-c, the relator shall, except as otherwise provided in this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the relator substantially contributed to the prosecution of the action. Where the action is one that the court finds to be based primarily on disclosures of specific information, other than information provided by the relator bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, the court may award sums as it considers appropriate,

but in no case more than 10 percent of the proceeds, taking into account the significance of the information furnished by the relator and the role of the relator bringing the action in advancing the case to litigation. Any payment to a relator under this paragraph shall be made from the proceeds. The relator shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All expenses, fees, and costs shall be awarded against the defendant.

II. If the court finds that the action was brought by a relator who planned and initiated the violation of RSA 167:61-b upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action that the relator would otherwise receive under paragraph I, taking into account the role of the relator in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the relator bringing the action is convicted of criminal conduct arising from the relator's role in the violation of RSA 167:61-b, the relator shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. The dismissal shall not prejudice the right of the state to continue the action represented by the attorney general.

III. No court shall have jurisdiction over an action brought under RSA 167:61-c:

(a) Against any department official or any division, board, bureau, commission or agency within the department;

(b) When the relator is a present or former employee of the state and the action is based upon information discovered by the employee during the course of the employee's employment, unless the employee first, in good faith, exhausted any existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels and the state failed to act on the information provided within a reasonable period of time;

(c) That is based upon allegations or transactions that are the subject of a civil or criminal investigation, civil suit, or an administrative civil money penalty proceeding, in which the state is already a party; or

(d) That is based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a legislative or administrative report, hearing, audit, or investigation, or from the news media, unless the action is brought by the attorney general or the relator bringing the action is an original source of the information.

IV. The state shall not be liable for expenses or fees, including attorneys' fees, that a relator incurs in bringing an action under RSA 167:61-c and shall not elect to pay those expenses or fees.

3 Repeal. RSA 167:61, relative to recovery of money obtained through fraud or abuse, is repealed.

4 Applicability. No provision of this act shall apply with respect to any claim, as defined under RSA 167:61-b, V(a), submitted prior to January 1, 2005.

5 Effective Date.

I. Section 3 of this act shall take effect January 1, 2010.

II. The remainder of this act shall take effect January 1, 2005.

**SB 531**, permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit. **OUGHT TO PASS WITH AMENDMENT**

Rep. David L. Buhlman for Municipal and County Government: This bill permits the State Veterans Advisory Committee to adopt bylaws for their committee. The amendment defines the term "theater of operation medal" for the purposes of the veterans tax credit and gives the verification of those veterans eligible to receive the tax credit to the Director of the State Veterans Council. The Director will then notify the Department of Revenue Administration of the recipient's eligibility for the tax credit so that the local municipalities have the verification needed. The amendment also adjusts the timing for granting any exemption or tax credit, along with clarifying the date of the "notice of tax" under 72:1.d. Vote 16-0.

#### **Amendment (1222h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** permitting the state veterans advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit, and relative to other optional tax credits.

Amend the bill by replacing all after section 1 with the following:

2 New Paragraph; Veterans Tax Credit; Definitions; Theater of Operations Service Medal. Amend RSA 72:29 by inserting after paragraph VI the following new paragraph:

VII. The term "theater of operations service medal" for the purposes of RSA 72:28-34 shall mean any medal, ribbon, or badge awarded to a member of the armed forces which establishes that the member served in a theater of war or armed conflict, as determined by the director of the state veterans council with written notification to the department of revenue administration.

3 Tax Credits; Procedure for Adoption, Modification, or Recission. Amend RSA 72:27-a, II to read as follows:

II. The vote shall specify the provisions of the property tax exemption or credit, the amount of such exemption or credit, and the manner of its determination, as listed in paragraph I. *If a majority of those voting on the question vote "yes," the exemption or credit shall take effect within the town or city, on the date set by the governing body, or in the tax year beginning April 1 following its adoption, whichever shall occur first.*

4 Optional Tax Exemptions; Investigation of Application and Decision. Amend RSA 72:34, IV to read as follows:

IV. *On or before July 1 prior to the date of notice of tax under RSA 72:1-d, the selectmen or assessors shall send by first class mail a written decision to any taxpayer who timely requests an exemption or tax credit.* On or before July 1 following the date of notice of tax under RSA 72:1-d, the selectmen or assessors shall send by first class mail a written decision to any taxpayer who timely requests ~~an exemption;~~ a deferral ~~or tax credit~~. This decision shall be sent on a form to be prepared by the department of revenue administration. The decision shall advise the taxpayer of the municipality's decision and shall inform the taxpayer of the appeal procedure set forth in RSA 72:34-a. Failure to respond shall constitute denial. Municipalities may, at their option, require the taxpayer to furnish a self-addressed envelope with sufficient postage for the mailing of this written decision.

5 Effective Date.

I. Section 4 of this act shall take effect April 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill authorizes the state veterans advisory committee to adopt bylaws governing the management and operation of the committee. The bill also defines "theater of operations service medal" for purposes of the veterans' tax credit.

This bill also makes certain changes to optional tax credit effective dates, and investigation of optional tax credit applications by town officials.

**SJR 2**, designating a Purple Heart Trail in New Hampshire. **OUGHT TO PASS**

Rep. Dennis H. Fields for Resources, Recreation and Development: This Senate Joint Resolution designates Route 4 from the Lebanon border due east, southeast to the Junction of Interstate 95 and the entire length of Interstate 95 as the Purple Heart Trail. This connects the Purple Heart Trail with Maine, Vermont and Massachusetts Trails. The military order of the Purple Heart of the USA desires to promote the principles and objectives of patriotism, history and education among the people of New Hampshire. Vote 12-0.

### REGULAR CALENDAR

**SB 406**, relative to adoption procedures. **OUGHT TO PASS WITH AMENDMENT**

Rep. Margaret D. Hallyburton for Children and Family Law: This bill re-codifies the adoption statute, RSA 170-B. It is the result of a three year effort by the Adoption Protocol Committee with input from all members of the adoption triad. This re-codification brings coherence to a statute that has been "band-aided" over the years. The Protocol Committee intentionally did not address controversial and evolving aspects of adoption law. The Protocol Committee will continue to meet to consider such changes for future legislation. Vote 10-4.

### Amendment (1372h)

Amend RSA 170-B:1, III as inserted by section 1 of the bill by replacing it with the following:

III. The adoptive parent or parents and ensuring them an undisturbed relationship with the child from and after the date of adoption.



Amend RSA 170-B:2 as inserted by section 1 of the bill by replacing it with the following:  
170-B:2 Definitions. As used in this chapter, unless the context otherwise requires:

- I. "Adult" means an individual who is not a minor.
- II. "Agency" means any person licensed by existing law to place minors for adoption.
- III. "Birth father" means a person or persons other than a legal father who has been named, pursuant to RSA 170-B:6, as the father of the child, or who is the subject of a pending paternity action, or who has filed an unrevoked notice of intent to claim paternity of the child pursuant to RSA 170-B:6.
- IV. "Birth mother" means a woman who gestates an embryo conceived by natural or artificial insemination, in vitro fertilization, or preembryo transfer, or becomes a parent pursuant to RSA 168-B:23, IV.
- V. "Child" means a son or daughter, whether by birth or by adoption.
- VI. "Commissioner" means the commissioner of the department of health and human services.
- VII. "Court" means probate court.
- VIII. "Department" means the department of health and human services.
- IX. "Guardian" means a person so appointed by the probate court.
- X. "Legal father" means:
  - (a) The person designated as the father pursuant to RSA 126:6-a on that child's birth certificate;
  - (b) The person designated as the father pursuant to court order resulting from a paternity action;
  - (c) The person designated as the father upon legitimation pursuant to RSA 457:42; or
  - (d) The person that was determined by the court to be married to the birth mother at the time of either conception or birth or any time between conception and birth.
- XI. "Minor" or "minor child" means any individual under the age of 18.
- XII. "Parent" means mother, birth father, legal father, or adoptive parent, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntarily surrender.

XIII. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

XIV. "Prospective adoptive parent" means the petitioner named on an adoption petition filed in the court.

XV. "Related child" means a child within the second degree of kinship either by blood or affinity. Relatives within the second degree includes step-parents, sisters, brothers, grandparents, aunts, or uncles.

XVI. "Sibling" means one of 2 or more persons having a common parent.

XVII. "Surrender" means the release of all parental rights, including but not limited to care, custody, and control of the child, by a parent, legal guardian, or agency.

Amend RSA 170-B:4 as inserted by section 1 of the bill by replacing it with the following:

170-B:4 Who May Adopt. Any of the following adults may adopt:

- I. Husband and wife together.
- II. An unmarried adult.
- III. The unmarried parent of the adoptee.
- IV. A married person without that person's spouse joining as a petitioner, if the adoptee is not the petitioner's spouse; and if any one of the following circumstances apply:
  - (a) The petitioner's spouse is a parent of the adoptee and assents to the adoption;
  - (b) The petitioner and his or her spouse are legally separated;
  - (c) The failure of the petitioner's spouse to join in the petition is excused by the court by reason of prolonged unexplained absence, unavailability, or circumstances constituting an unreasonable withholding of assent; or
  - (d) The petitioner's spouse assents to the adoption and the adoptee is over the age of 18.

Amend RSA 170-B:6, I as inserted by section 1 of the bill by replacing it with the following:

- I. In an intrastate or interstate adoption, but not an international adoption, the following persons shall be given notice by the court and shall have the right to request a hearing to prove paternity:
  - (a) A person named by the birth mother in an affidavit:
    - (1) Filed with the court; and
    - (2) Given prior to or at the time of the surrender of parental rights pursuant to RSA 170-B:9, or her parental rights being involuntarily terminated.

(b) The birth or legal father, if his identity is known by the court, the department or licensed child placing agency which is legal guardian of the child, or the proposed adoptive parents or their attorney, prior to the birth mother surrendering her parental rights pursuant to RSA 170-B:9 or her parental rights being involuntarily terminated.

(c) A person who claims to be the father and who has filed notice of his claim of paternity with the office of child support services in what shall be known as the New Hampshire putative father registry or in the putative father registry of the state where the child was born. In an interstate adoption, the petitioner shall provide the court with the address and telephone number of the putative father registry in the state where the child was born. In New Hampshire, the notice form shall be supplied by the office of child support services and shall indicate the claimant's willingness and intent to support the child to the best of his ability. The notice form may be filed prior to the birth of the child but shall be filed prior to the birth mother's parental rights being surrendered pursuant to RSA 170-B:9 or involuntarily terminated. Failure to file the notice prior to this time shall bar the alleged father from thereafter bringing an action to establish his paternity of the child, and shall constitute an abandonment of said child and a waiver of any right to a notice of hearing in any adoption proceeding concerning the child.

(d) A person who is openly living with the child or the child's birth mother or providing financial support to her or the child at the time any action under this chapter is initiated and who is holding himself out to be the child's father prior to the mother surrendering her parental rights pursuant to RSA 170-B:9 or the mother's parental rights being involuntarily terminated.

Amend RSA 170-B:9 as inserted by section 1 of the bill by replacing it with the following:

170-B:9 Procedure for Execution of Surrender.

I. Any parent surrendering parental rights shall be represented by legal counsel who is not representing an intended adoptive parent or the agency, unless such representation is waived with approval of the court for good cause shown.

II. A surrender of parental rights by a parent or guardian shall be executed by an instrument in writing, signed by the parent, in the presence and with the approval of the court of the county in which the parent resides. The court may designate a person or another court to take the parent's surrender on the court's behalf for good cause shown.

III. Any parent surrendering parental rights shall file with the court information on the age and medical and personal backgrounds of the birth parents and child. Such personal information may include but not be limited to ethnic and religious background, as is reasonably known. This requirement may be waived by the court for good cause shown.

IV. If the parent surrendering is under 18 years of age, the court may require the assent of the minor's parents or legal guardian.

V. If the parent does not reside in this state, such surrender may be taken pursuant to the laws of the state where the parent resides. A surrender executed pursuant to the laws of a state other than New Hampshire shall include an affidavit stating that the surrender was taken in accordance with the laws of that state and, where applicable, that the agency named has the authority to surrender the child for an adoption.

VI. The identification of the intended adoptive parents need not be known or disclosed to the birth parent or legal guardian in the surrender.

VII. A surrender executed by the department or by an agency, shall be in writing and signed by the executive head or other authorized representative, in the presence of a person authorized to take acknowledgments.

Amend RSA 170-B:12, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The court shall notify any other party who has surrendered rights to the child of the issuance of its order granting the withdrawal of such surrender. Notice sent by regular first class mail to the last known address on file with the court shall be sufficient and shall include with it a replication of RSA 170-B:12. The party shall have 30 days from the date of the register's notice of decision to request in writing to the court that his or her surrender be withdrawn as well. The 30-day time period to file such a request shall not be extended by the court absent a showing of good cause.

(a) Upon the court's timely receipt of the request, the court shall, except in the case of a surrender to the department, allow that party's withdrawal as of right and shall enter an order withdrawing such surrender.

(b) In the case of a surrender to the department, upon timely receipt of the request, the provisions of paragraphs II and III shall apply.

Amend RSA 170-B:13 as inserted by section 1 of the bill by replacing it with the following:

170-B:13 Payment of Birth Parent Expenses; Penalty.

I. In any adoption of an unrelated minor child under this chapter, an intended adoptive parent or anyone acting in concert with, at the direction of, or on behalf of an intended adoptive parent shall pay only the following expenses of the birth parent:

(a) Reasonable counseling, medical, and legal fees, which shall be paid by the party responsible for payment to the provider of the service.

(b) Reasonable expenses for transportation, meals, clothing, and lodging incurred for placement of the minor child.

(c) Reasonable expenses for adoption services provided by an agency at the request of the birth parent, which shall be paid directly to the agency.

(d) Reasonable living expenses of the birth mother which are necessary to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy and lost wages resulting from the pregnancy or delivery. Payments may cover expenses incurred during the pregnancy-related incapacity, but not for a period longer than 6 weeks following delivery. Reasonable living expenses shall not include gifts in excess of \$50, educational expenses, or other payments for the monetary gain of the birth parent.

II. A contract purporting to require a birth parent to reimburse an intended adoptive parent for such payments under any circumstances, including circumstances in which a birth parent refuses to surrender his or her parental rights or withdraws said surrender, is void as against public policy.

III. Violations of this section shall not affect the force or effect of an adoption decree issued pursuant to this chapter; specifically, it shall not be grounds for the finding of fraud or duress affecting the validity of a surrender that an adoptive parent paid or refused to pay expenses or other money or things of value not allowed by this section.

IV. The court may issue appropriate orders to enforce this section, including orders for reimbursement.

Amend RSA 170-B:24, II(e) and (f) as inserted by section 1 of the bill by replacing it with the following:

(e) When the department or agency involved in the adoption receives a request for identifying information where a release has been signed and not previously revoked, the department or agency shall attempt to contact the person who signed the release to reaffirm that person's desire to be contacted. If the person reaffirms his or her desire to be contacted or the department or agency cannot locate the person who signed the release or if the person is deceased, the department or agency shall disclose identifying information to the person who requested it. Court approval is not required for information disclosed under this paragraph.

(f) When the department or agency involved in the adoption receives a request for identifying information where no release has been signed or the previously signed release has been revoked, the department or agency may, after review of its records, attempt to contact the person whose identity is sought, to ascertain if they desire to release identifying information. If the person whose identity is sought, and the person seeking identifying information agree to the release of identifying information, the department or agency shall release it. Court approval is not required for information released under this subparagraph.

Amend RSA 170-B:24, III as inserted by section 1 of the bill by replacing it with the following:

III. Court approval shall be required prior to the release of identifying information in the following cases:

(a) If the parties do not agree, or if they cannot be contacted, or if the department or agency questions the safety of releasing information pursuant to paragraph II, the requesting party or the department or agency may petition the court having jurisdiction for the release of identifying information. The department or agency shall file a report of the department or agency's action with the court. The court shall on its own motion or on request of any party hold a hearing on the issue of releasing identifying information. The department or agency involved shall receive notice of the hearing and be entitled to participate in any hearing under this section.

(b) For all other requests for identifying information under this section, court approval shall be required. The court shall request a review of the record and the facts of the request from the department or agency involved in the adoption. The court may hold a hearing on the issue of releasing identifying information. The department or agency involved shall receive notice of such hearings and be entitled to participate in any hearing under this section.

Amend RSA 170-C:2, VIII as inserted by section 5 of the bill by replacing it with the following:

VIII. "Parent" means (a) the mother, (b) a father as to whom a child is legitimate, (c) a person as to whom a child is presumed to be a legitimate child, (d) ~~[a putative]~~ **an alleged** father who is living with the mother and child or who has complied with the provisions of RSA ~~[170-B:5, I(d)]~~ **170-B:5, I(c)**, or ~~[(e)]~~ **(d)** an adoptive parent. Such term does not include a parent as to whom the parent-child relationship has been terminated by judicial decree.

Amend the bill by replacing all after section 7 with the following:

8 Applicability. This act shall apply to all adoption proceedings or pleadings filed on or after the effective date of this act.

9 Effective Date. This act shall take effect January 2, 2005.

Adopted.

Report adopted and ordered third reading.

### SPECIAL ORDER

**SB 520**, relative to modification of child support obligation. **OUGHT TO PASS WITH AMENDMENT**

Rep. David A. Bickford for Children and Family Law: This bill as amended provides that modification of a child support order shall not be effective prior to the date of notice of the petition. The amendment also defines notice and allows a change in amount of child support to be more closely set when a change in income occurs. It keeps New Hampshire in compliance with federal law while allowing parents to better reflect increases and decreases in income. Vote 10-0.

#### Amendment (1000h)

Amend the bill by replacing all after the enacting clause with the following:

I Child Support Guidelines; Modification of Order. Amend RSA 458-C:7 to read as follows:  
458-C:7 Modification of Order.

I. The obligor or obligee may apply to the court or, when the department of health and human services has issued a legal order of support pursuant to RSA 161-C, to the department, which ever issued the existing order, for modification of such order 3 years after the entry of the last order for support, without the need to show a substantial change of circumstances. This section shall not prohibit the obligor or obligee from applying at any time for a modification based on substantial change of circumstances.

II. *Any child support modification shall not be effective prior to the date that notice of the petition for modification has been given to the respondent. "Notice" means:*

(a) *Service as specified in civil actions; or*

(b) *Acceptance of a copy of the petition, as long as the petition is filed no later than 30 days following said acceptance, and as long as the petitioner provides proof of acceptance by a certified mail receipt. Nothing in this subparagraph shall be construed to affect service as required by law.*

2 Support and Custody of Children; Date of Modification. Amend RSA 458:17, VIII to read as follows:

VIII. No modification of a support order shall alter any arrearages due prior to the date of ~~[filing]~~ **notice of the [motion] petition** for modification **as provided in RSA 458-C:7.**

3 Repeal. RSA 458-C:3, IV(c), relative to the effective date of a petition for modification, is repealed.

4 Effective Date. This act shall take effect 60 days after its passage.

### AMENDED ANALYSIS

This bill provides that modification of a child support order shall not be effective prior to the date of notice of the petition for modification.

Adopted.

Rep. Hallyburton offered a floor amendment (1461h).

#### Floor Amendment (1461h)

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to child support modification and service of divorce petitions.

Amend the bill by replacing all after section 3 with the following:

4 Annulment, Divorce, and Separation; Service of Petition. RSA 458:9, II is repealed and reenacted to read as follows:

II. An individual petition shall be filed with the appropriate court, together with the filing fee, by the petitioner. Upon the filing of a petition, the court shall issue orders of notice, attached to the petition, which the petitioner shall then serve on the respondent as provided in this section:

(a) Service within the state shall be made either by:

(1) A sheriff, in hand or by leaving an attested copy of the petition, orders of notice, and an appearance form at the respondent's abode, within 25 days of receipt of orders of notice. The return of service shall state the street and number, or some other description, of the abode. The petitioner shall file the return of service with the court as proof of service.

(2) Certified mail, return receipt requested, restricted delivery, mailed within 7 days of receipt of orders of notice, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

(b) Service outside the state shall be made either by:

(1) An officer authorized to make service of process in the state where the respondent lives. Proof of out-of-state service shall be made by a return of the officer under oath, accompanied by an official certificate of his or her official character or authority. The petitioner shall file the return of service with the court as proof of service.

(2) Certified mail, return receipt requested, restricted delivery, signed by the addressee only. The petitioner shall file the return receipt with the court as proof of service.

5 Contingency. If HB 532 of the 2004 legislative session becomes law, then section 4 of this act shall take effect at 12:01 a.m. on the effective date of HB 532. If HB 532 of the 2004 legislative session does not become law, then section 4 of this act shall not take effect.

6 Effective Date.

I. Section 4 of this act shall take effect as provided in section 5.

II. Section 5 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

#### AMENDED ANALYSIS

This bill provides that a motion for modification of child support shall be effective from the date of service or the date of notice to the respondent; provided, that such notice is by certified mail, restricted delivery, return receipt requested.

The bill also provides that in state service of a divorce petition shall be made in hand or by certified mail within 25 days of receipt of the orders of notice.

Rep. Hallyburton spoke in favor.

Floor amendment (1461h) adopted.

Report adopted and ordered to third reading.

#### REGULAR CALENDAR (CONT'D.)

**SB 419**, relative to the use of standardized health statements and relative to renewals of certain policies. **INEXPEDIENT TO LEGISLATE**

Rep. Leo W. Fraser, Jr. for Commerce: In the 2003 Session the General Court adopted the provisions of SB 110 which made dramatic changes in the then existing law. The intent of SB 110 was to bring more competition into the market place for small group insurance. It changed the age banding from 3:1 to 4:1. It changed the definition of the small group market from 1 to 100, employees from 1 to 50. It allows for new rating factors for industry classification, health states and geographic location. The bill went on to add new reporting requirements concerning rating factors, concerning the use of rating factors by the insurers, as well as creating an oversight committee. SB 419, as amended by the Senate had no support from the committee because it creates an unlevel playing field. The committee did vote on eliminating medical underwriting, however the motion failed by a 6-13 vote. The vast majority felt that any changes promulgated in SB 419 was premature, as SB 110 had not had an opportunity to mature.

Adopted.

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen R. L'Heureux for Education: The amendment adopted by the committee replaced the original bill and makes technical corrections to the charter school law funding section. With the current provision set to expire, a technical correction was needed to reference the correct statute to allow for funding to continue after July 1, 2004. Vote 10-7.

#### Amendment (1249h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to per pupil funding for charter schools authorized by the state board of education.

Amend the bill by replacing all after the enacting clause with the following:

1 Charter Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. (a) There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district.

(b) For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department.

(c) For any charter school authorized by the state board of education, the pupil's resident district shall pay tuition beginning July 1, 2004 and every fiscal year thereafter, in an amount per pupil equal to the amount determined in RSA ~~[198:40, I]~~ **198:40-a, I excluding the calculations set forth in subparagraphs (a)-(d).**

(d) Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of adequacy grants under RSA 198:42 or on such other terms as are mutually acceptable.

2 Effective Date. This act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill provides that for each of its pupils, a charter school authorized by the state board of education shall receive the targeted per pupil aid amount established in RSA 198:40-a, I.

Adopted.

Report adopted and ordered to third reading.

#### **SB 481-FN-L, establishing a sewer and other water-related purposes district for Great Bay. OUGHT TO PASS WITH AMENDMENT**

Rep. Emma L. Rous for Environment and Agriculture: This bill as amended establishes the Estuary Alliance for Sewage Treatment, EAST, potentially made up of 44 towns in the Great Bay watershed to address sewage treatment and discharge in the Great Bay Estuary. The towns will join EAST voluntarily and work cooperatively to implement the recommendations of the SB 70 commission Feasibility Study presently beginning and to access federal funds under the National Estuary Restoration Act of 2000. The bill, in keeping with the SB 70 commission's goals, calls for study of all alternative solutions related to sewage effluent and estuary restoration and requires prior approval of the legislature if the preferred alternative should be a regional sewer outfall pipe. Vote 12-4.

#### Amendment (1378h)

Amend RSA 485-E:1 as inserted by section 1 of the bill by replacing it with the following:

485-E:1 Statement of policy. The purpose of the chapter is to achieve the restoration of the estuary habitat as part of the National Estuary Restoration Act of 2000, to develop an estuary habitat restoration funding strategy for creating and maintaining effective partnerships with the federal government and with the private sector, to establish a funding partnership between local communities and the state, and to seek federal assistance for and promote efficient financing of the Great Bay estuary habitat restoration projects. It is recognized that in certain cases municipalities in New Hampshire may, in order to avoid duplication of cost and effort, and in order to take advantage of economies of scale, find it necessary or advisable to enter into agreements whereby joint public wastewater collection, treatment, and discharge systems are designed, constructed, operated, and maintained. The state of New Hampshire recognizes the value of and need for such agreements, and the Estuary Alliance for Sewage Treatment is established for this purpose or for other water-related purposes.

Amend RSA 485-E:2 as inserted by section 1 of the bill by replacing it with the following:

485-E:2 Definitions. In this chapter:

I. "Alternatives development" means the fully analyzed alternatives by the consultant as detailed by the "Scope of Services Feasibility Study for a Regional Outfall Sewer System."

II. "Construction" shall include all engineering services in addition to the construction of joint public wastewater collection, treatment, and discharge systems, except those intercepting sewers and facilities retained by municipalities; or any other associated work, or both, and including any necessary land acquisition, easements, and rights-of-way.

III. "Directors" means the EAST board of directors.

IV. "EAST" means the Estuary Alliance for Sewage Treatment.

V. "Municipalities" means cities, towns, village districts, or other incorporated units of local government possessing authority to construct, maintain, and operate public wastewater facilities and to raise revenue therefor by bonding and taxation, which may legally impose and collect user charges and impose and enforce regulatory control upon users of public wastewater facilities.

VI. "Operation and maintenance" shall include maintenance of all buildings, equipment, supplies, and administrative costs associated with the management of joint public wastewater collection, treatment, and discharge systems, and for such other purposes as may be involved in the operation of an effective regional pollution control program.

VII. "Sewage" means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

Amend RSA 485-E:3 as inserted by section 1 of the bill by replacing it with the following:

485-E:3 Estuary Alliance for Sewage Treatment. There is hereby established a public body corporate and politic having a distinct legal existence separate from the state and not constituting a department or agency of the state government to be known as the Estuary Alliance for Sewage Treatment, also known as EAST. The public purpose of EAST is:

I. To acquire, own, and operate or cause to be operated joint public wastewater collection, treatment, and discharge systems to be used for the collection, treatment, and disposal of treated wastewater from the municipal sewage treatment plants in the Great Bay estuary area.

II. To act for other water-related purposes.

Amend RSA 485-E:6 as inserted by section 1 of the bill by replacing it with the following:

485-E:6 Federal Grants and Financing.

I. Application for federal grants-in-aid for the planning, further alternatives feasibility studies, and other alternative water-related solutions shall be made by EAST. Each municipality shall be responsible for applying for federal and state grants for facilities or other water-related solutions not used by EAST.

II. Municipalities may raise and appropriate revenue for the purpose of contributing pro rata to the planning and further study of alternatives development of joint public wastewater collection, treatment, and discharge systems or other water-related infrastructure solutions, or both, as joint facilities development alternatives pursuant to this alliance.

Amend RSA 485-E:7 as inserted by section 1 of the bill by replacing it with the following:

485-E:7 Board of Directors.

I. The board of directors of EAST shall consist of the following representatives:

(a) One from every town or city that has joined EAST by agreement, appointed by the governing body.

(b) One member of the county commission from each county in which one or more municipalities participate in EAST, appointed by each respective county chairperson.

(c) The commissioner of the department of environmental services, or designee, who shall be a non-voting member.

II. Each entity in paragraph I of this section may appoint an alternate who will serve if the primary board member is absent. The board of directors shall hold office for 2 years. All initial appointments shall be regarded as having begun on the day of the annual meeting.

III. Annually, the board of directors shall elect one of its members as chairperson and another as vice chairperson. The directors shall elect a secretary and a treasurer who shall also be board members, and the same person may serve both as secretary and as treasurer. The officers shall be elected by majority vote.

IV. The directors shall serve without compensation, but EAST shall reimburse its directors for actual expenses appropriately and necessarily incurred in the discharge of their duties.

Amend RSA 485-E:12 as inserted by section 1 of the bill by replacing it with the following:

485-E:12 Outfall Pipe; Legislative Approval Required. EAST shall obtain approval from the legislature before it takes any action that will lead to construction of a regional outfall sewer pipe.

485-E:13 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 First Meeting. The chairperson of the Great Bay Estuary commission, established by 2003, 236, shall call the first meeting of EAST prior to November 1, 2005.

### AMENDED ANALYSIS

This bill:

I. Establishes the Estuary Alliance for Sewage Treatment EAST, for the purpose of developing joint public wastewater collection, treatment, and discharge systems for the disposal of treated wastewater, and for other water-related purposes, for municipalities in the Great Bay estuary and related area.

II. Requires EAST to obtain legislative approval for construction of a regional outfall sewer pipe. Adopted.

Report adopted and ordered to third reading.

**SB 362**, changing the name of the college for lifelong learning to Granite state college. **MAJORITY: REFER FOR INTERIM STUDY. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Michael O'Neil for the Majority of Executive Departments and Administration: This bill changes the name of the college for lifelong learning to Granite State College. After holding a second public hearing, the committee reconsidered its original recommendation of ought to pass at the request of the board of trustees. At the second public hearing, the chairman of the board requested interim study which will enable the board to spend additional time on a restructuring plan. Vote 14-5.

Rep. Francis Sullivan for the Minority of Executive Departments and Administration: This bill, as amended, was originally passed by a 16-0 vote. The bill was retained on April 14, and after reconsideration, was recommended for interim study. The original bill was amended to guarantee that the name change from School of Lifelong Learning to Granite State College and the school's status could not be changed without legislative authority. The original bill insures that our state college system will remain the same.

Majority report adopted.

**SB 434**, relative to importing prescription drugs from Canada. **OUGHT TO PASS WITH AMENDMENT**

Rep. Maurice L. Pilotte for Executive Departments and Administration: The amendment changes this bill to provide for the establishment of a commission to study methods for making prescription drugs more affordable for New Hampshire citizens, including, but not limited to, importing drugs from Canada. Vote 18-1.

### Amendment (1352h)

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a pharmaceutical study commission to study methods for making prescription drugs more affordable for New Hampshire citizens.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study methods for making prescription drugs more affordable for New Hampshire citizens.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house, as follows:

(1) One member from the commerce committee.

(2) One member from the executive departments and administration committee.



- (3) One member from the health, human services and elderly affairs committee.
- (b) Two members of the senate, appointed by the president of the senate.
- (c) Two members of the public, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study methods for making prescription drugs more affordable for New Hampshire citizens, including but not limited to, importing drugs from Canada. The commission shall solicit comment from:

- I. The commissioner of health and humans services, or designee.
- II. The National Association of Chain Drug Stores.
- III. The American Pharmaceutical Association.
- IV. The Pharmaceutical Research and Manufacturers of America.
- V. The American Association of Retired Persons.
- VI. Any other person or entity the commission deems relevant.

4 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

6 Effective Date. This act shall take effect upon its passage.

#### AMENDED ANALYSIS

This bill establishes a commission to study methods for making prescription drugs more affordable for New Hampshire citizens, including but not limited to, importing drugs from Canada.

Adopted.

Report adopted and ordered to third reading.

**SB 484**, establishing the Collaborative Practice for Emergency Contraception Act. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Nelson S. Allan for the Majority of Executive Departments and Administration: This bill permits pharmacists to dispense emergency contraception if the pharmacists meet certain criteria established by the board of pharmacy. A pharmacist through a collaborative agreement established with a licensed practitioner would dispense this medication. This emergency contraception pill (ECPs) may help prevent unwanted pregnancy by preventing implantation of a fertilized egg to the lining of the uterus, or delaying release of an egg from the ovary, or preventing egg fertilization from occurring. This medication has a limited time frame of effectiveness, requiring quick ECP access from the pharmacist. The committee heard testimony that the Food and Drug Administration is actively pursuing providing a common prescribed ECP drug "Plan B" over the counter, eliminating the need for this bill. Their decision is expected shortly, and will be possibly influenced by two advisory panels' strong positive recommendations to proceed. Several members of the committee voiced their concern about protecting the employed pharmacist from retaliation by their company if they in good conscience do not want to participate in this program. After much discussion and an amendment, the majority of the committee supported the decision of Inexpedient to Legislate (ITL). Vote 10-9.

Rep. Peter F. Bergin for the Minority of Executive Departments and Administration: This bill holds great promise for expanding access to emergency contraceptive pills in New Hampshire. It will help to prevent unintended pregnancies, and thus the need for abortion, by establishing a voluntary collaborative therapy agreement between a pharmacist and a prescriber. Emergency Contraceptive pills (ECPs) consist of the same hormones found in ordinary birth control pills and reduce a woman's chance of becoming pregnant by 75 to 89 percent when taken shortly after intercourse. ECPs do not cause abortion; instead, they work to prevent pregnancies. ECPs provide women with an additional method of birth control in the event that their primary method fails or they experience a sexual assault. The bill reports that 50% of all unexpected pregnancies are the result of contraceptive failure. Because ECPs are most effective when taken within 24 hours of intercourse, and because women often struggle to locate and contact prescribers and then find pharmacists to

fill their prescriptions in a timely manner, better policies are needed to make ECPs more accessible. SB 484 is one such policy. It would permit collaborative therapy agreements between pharmacists and licensed prescribers that would allow pharmacists to dispense ECPs directly from the pharmacy. Collaborative therapy agreements are voluntary for both pharmacists and licensed prescribers; SB 484 would not affect health-care providers who do not want to participate. Public testimony stated that 24 or 25 independent pharmacists in New Hampshire are prepared to participate in this program should SB 484 become law. SB 484 does not grant prescriptive authority to pharmacists; rather, pharmacists would dispense emergency contraception under protocols designed by the New Hampshire Board of Pharmacy and remotely supervised by the partnering prescriber. This concept is similar to EMTs administering medication in emergency situations under pre-approved protocols. SB 484 is a good health policy and holds the promise of reducing unintended pregnancy in New Hampshire.

Rep. Irwin spoke against.  
Reps. William Field, Hagan and Souza spoke in favor.  
Rep. Keans spoke against and yielded to questions.  
Reps. Nelson Allen and Pilotte spoke in favor and yielded to questions.  
Rep. Field requested a roll call; sufficiently seconded.  
The question being adoption of the majority committee report.

**YEAS 159 NAYS 183**

**YEAS 159  
BELKNAP**

Ahern, Omer Jr	Boyce, Laurie	Clark, Charles	Fitzgerald, James
Flanders, Donald	Holbrook, Robert	Laflam, Robert	Nedean, Stephen
Rice, Thomas	Thomas, John	Wendelboe, Fran	

**CARROLL**

Brown, Carolyn	Derby, Mark	Kenney, Bettie	Mock, Henry
Stevens, Stanley			

**CHESHIRE**

Dexter, Judson	Fish, Douglas	Laurent, John
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**COOS**

Guay, Lawrence	King, Frederick	Stohl, Eric	Woodward, David
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**GRAFTON**

Dorsett, Andrew	Dudley, Terri	Gilman, G Michael	Giuda, Robert
Ingbretson, Paul	Maybeck, Margie	Solomon, Peter	Sorg, Gregory
Williams, Burton			

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Arnold, Thomas Jr
Artz, Lawrence	Balboni, Michael	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brundige, Robert	Bruno, Pierre	Buhlman, David
Carlson, Donald	Cernota, Albert	Chabot, Robert	Christiansen, Lars
Coughlin, Pamela	Desmarais, Vivian	Dionne, Kimberley	Elliott, Larry
Fields, Dennis	Gibson, John	Gonzalez, Carlos	Goyette, Peter Jr
Greenberg, Gary	Hagan, Barbara	Haley, Robert	Hall, Charles
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr
Hinkle, Peyton	Hopper, Gary	Jasper, Shawn	L'Heureux, Robert
LaFlamme, Paul	Lessard, Rudy	Luebker, Bernard	Martin, Mary Ellen
McElroy, Henry Jr	McHugh, Claire	Mercer, Robert	Mooney, Maureen
Moran, Edward	O'Brien, Lori	Pepino, Leo	Pilotte, Maurice
Reeves, Sandra	Rowe, Robert	Slocum, Lee	Souza, Kathleen
Stepanek, Stephen	Sweeney, Cynthia	Wheeler, James	Wheeler, Robert

**MERRIMACK**

Field, William  
Nutter, Edward

Jacobson, Alf  
Oliver, James

Kennedy, Richard  
Reed, Dennis

Langer, Ray  
Soltani, Tony

**ROCKINGHAM**

Allen, Mary  
Cady, Harriet  
Dodge, Robert  
Gilbert, Karl  
Headd, James  
Introne, Robert  
Kobel, Rudolph  
Manning, John  
Packard, Sherman  
Roessner, Kurt  
Weare, E Albert  
Wiley, Robert

Belanger, Ronald  
Carson, Sharon  
Dowd, John  
Gillick, Thomas  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
McKinney, Betsy  
Priestley, Anne  
Vallone, Matthew  
Welch, David  
Zolla, William

Bicknell, Elbert  
Clark, Vivian  
Duffy, James  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Letourneau, Robert  
Morris, Richard  
Putnam, Ed II  
Varrell, Thomas  
Weldy, Norman Jr

Bishop, Franklin  
Cooney, Richard  
Fesh, Bob  
Hamel, Albert  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
Noyes, Richard  
Quandt, Matthew  
Waterhouse, Kevin  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Cataldo, Sam  
Hollinger, Jeffrey  
Woods, Phyllis

Bemis, Alan  
Easson, Timothy  
Newton, Clifford

Berube, Roger  
Harrington, Michael  
Scott, David

Campbell, W Packy  
Heon, Richard  
Twombly, James

**SULLIVAN**

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

**NAYS 183****BELKNAP**

Allen, Janet  
Whalley, Michael

Bartlett, Gordon

Pilliod, James

Russell, David

**CARROLL**

Babson, David Jr  
Olimpio, J Lisbeth

Dickinson, Howard  
Patten, Betsey

McConkey, Mark  
Philbrick, Donald

Morrow, Harry

**CHESHIRE**

Allen, Peter  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Webber, Amy

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Royce, H Charles  
Weed, Charles

Eaton, Daniel  
Manning, Joseph  
Pratt, John  
Smith, Edwin

Espiefs, Peter  
Meador, David  
Richardson, Barbara  
Tilton, Anna

**COOS**

Mears, Edgar  
Tholl, John Jr

Poulin, Richard

Pratt, Leighton

Theberge, Robert

**GRAFTON**

Alger, John  
Bleyler, Ruth  
Eaton, Stephanie  
Scovner, Nancy

Almy, Susan  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Barker, Robert  
Densmore, Edward  
Naro, Debra

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

**HILLSBOROUGH**

Baroody, Benjamin  
Christensen, D L Chris  
Cote, Peter

Beaton, William  
Clayton, William  
Craig, James

Buckley, Raymond  
Clemons, Jane  
Crane, Elenore Casey

Carter, Mark  
Cote, David  
Dokmo, Cynthia

Drisko, Richard  
 Gargas, Carolyn  
 Holden, Randolph  
 Katsiantonis, Thomas  
 Lawrence, James  
 Messier, Irene  
 Ober, Russell III  
 Scanlon, Michael  
 Sullivan, Peter

Emerton, Larry  
 Gorman, Mary  
 Infantine, William  
 Kopka, Angeline  
 Leach, Edward  
 Michon, Stephen  
 Pappas, Christopher  
 Schulze, Joan  
 Tate, Joan

Fletcher, Richard  
 Graham, John  
 Irwin, Anne-Marie  
 Kurk, Neal  
 Malloy, Chris  
 Mosher, William  
 Pappas, Marc  
 Spiess, Paul  
 Vaillancourt, Steve

Ford, Nancy  
 Hallyburton, Margaret  
 Johnson, Lionel  
 Lasky, Bette  
 McDonough-Wallace, Alice  
 Movsesian, Lori  
 Price, Pamela  
 Sullivan, Francis

### MERRIMACK

Anderson, Eric  
 Clarke, Claire  
 DeStefano, Stephen  
 French, Barbara  
 Hess, David  
 Lockwood, Priscilla  
 McCormick, Tom  
 Potter, Frances  
 Wallner, Mary Jane

Blanchard, Elizabeth  
 Currier, David  
 Dunne, Christopher  
 Gile, Mary  
 Kenison, Leon  
 MacKay, James  
 Osborne, Jessie  
 Rodd, Beth

Bouchard, Candace  
 Davis, Frank  
 Foley, Albert  
 Hager, Elizabeth  
 L'Heureux, Stephen  
 Marple, Richard  
 Owen, Derek  
 Rush, Deanna

Brueggemann, Donald  
 DeJoie, John  
 Fraser, Leo Jr  
 Hamm, Christine  
 Leber, William  
 Maxfield, Roy  
 Perkins, Randy  
 Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
 Casey, Kimberley  
 Francoeur, Sheila  
 Johnson, Robert  
 McEachern, Paul  
 Rausch, James  
 Splaine, James

Blanchard, MaryAnn  
 Coes, Betsy  
 Gilbert, Jeffrey  
 Kelley, Jane  
 Norelli, Terie  
 Robertson, Carl  
 Stone, Joseph

Bridle, Russell  
 DiFruscia, Anthony  
 Gleason, John  
 Langley, Jane  
 O'Neil, Michael  
 Shultis, Elizabeth  
 Tufts, J Arthur

Camm, Kevin  
 Flanders, John Sr  
 Gould, Kenneth  
 McCann, Richard  
 Pantelakos, Laura  
 Smith, Donald

### STRAFFORD

Bickford, David  
 Grassie, Anne  
 Keans, Sandra  
 Pelletier, Arthur  
 Smith, Marjorie

Brown, Julie  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Spang, Judith

Creteau, Irene  
 Johnson, Nancy  
 Miller, Joseph  
 Rous, Emma  
 Taylor, Kathleen

Dunlap, Patricia  
 Kaen, Naida  
 Musler, George  
 Schmidt, Peter  
 Wall, Janet

### SULLIVAN

Allison, David  
 Ferland, Brenda

Burling, Peter  
 Franklin, Peter

Cloutier, John  
 Phinizy, James

Donovan, Thomas

and the majority committee report failed.

### MOTION TO LAY ON THE TABLE

Rep. Wendelboe moved that **SB 484**, establishing the Collaborative Practice for Emergency Contraception Act, be laid on the table and spoke in favor.

Rep. Hagan requested a roll call; sufficiently seconded.

The question being to lay SB 484 on the table.

### YEAS 140 NAYS 204

#### YEAS 140

#### BELKNAP

Ahern, Omer Jr  
 Holbrook, Robert

Boyce, Laurie  
 Laflam, Robert

Clark, Charles  
 Rice, Thomas

Fitzgerald, James  
 Wendelboe, Fran

#### CARROLL

Brown, Carolyn  
 Stevens, Stanley

Derby, Mark

Kenney, Bettie

Mock, Henry

**CHESHIRE**

Dexter, Judson

Fish, Douglas

Laurent, John

**COOS**

Guay, Lawrence

Stohl, Eric

Woodward, David

**GRAFTON**Dorsett, Andrew  
Ingretson, PaulDudley, Terri  
Maybeck, MargieGilman, G Michael  
Solomon, PeterGiuda, Robert  
Sorg, Gregory**HILLSBOROUGH**Adams, Jarvis  
Artz, Lawrence  
Bergeron, Jean-Guy  
Carlson, Donald  
Coughlin, Pamela  
Fields, Dennis  
Hagan, Barbara  
Hawkins, Ken  
Jasper, Shawn  
Luebker, Bernard  
Mooney, Maureen  
Pilotte, Maurice  
Souza, Kathleen  
Wheeler, RobertAllan, Nelson  
Balboni, Michael  
Brundige, Robert  
Cernota, Albert  
Desmarais, Vivian  
Gibson, John  
Hall, Charles  
Hinkle, Peyton  
L'Heureux, Robert  
Martin, Mary Ellen  
Moran, Edward  
Reeves, Sandra  
Stepanek, StephenAllen, Timothy  
Barry, J Gail  
Bruno, Pierre  
Chabot, Robert  
Dionne, Kimberley  
Gonzalez, Carlos  
Hansen, Ryan  
Hopper, Gary  
LaFlamme, Paul  
McElroy, Henry Jr  
O'Brien, Lori  
Rowe, Robert  
Sweeney, CynthiaArnold, Thomas Jr  
Batula, Peter  
Buhlman, David  
Christiansen, Lars  
Elliott, Larry  
Goyette, Peter Jr  
Harrington, Paul  
Infantine, William  
Lawrence, James  
McHugh, Claire  
Pappas, Marc  
Slocum, Lee  
Wheeler, James**MERRIMACK**Field, William  
Oliver, JamesKennedy, Richard  
Reed, DennisLanger, Ray  
Soltani, Tony

Nutter, Edward

**ROCKINGHAM**Allen, Mary  
Carson, Sharon  
Duffy, James  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Letourneau, Robert  
Priestley, Anne  
Varrell, Thomas  
Wiley, RobertBicknell, Elbert  
Clark, Vivian  
Fesh, Bob  
Hamel, Albert  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
Putnam, Ed II  
Waterhouse, Kevin  
Zolla, WilliamBishop, Franklin  
Dodge, Robert  
Gilbert, Karl  
Headd, James  
Introne, Robert  
Kobel, Rudolph  
Morris, Richard  
Quandt, Matthew  
Weldy, Norman JrCady, Harriet  
Dowd, John  
Gillick, Thomas  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
Packard, Sherman  
Roessner, Kurt  
Weyler, Kenneth**STRAFFORD**Albert, Russell  
Easson, Timothy  
Scott, DavidBerube, Roger  
Harrington, Michael  
Twombly, JamesCampbell, W Packy  
Hollinger, Jeffrey  
Woods, PhyllisCataldo, Sam  
Newton, Clifford**SULLIVAN**

Flint, Gordon Sr

Jones, Constance

Leone, Richard

Rodeschin, Beverly

**NAYS 204****BELKNAP**Allen, Janet  
Pilliod, JamesBartlett, Gordon  
Russell, DavidFlanders, Donald  
Thomas, JohnNedeau, Stephen  
Whalley, Michael**CARROLL**Babson, David Jr  
Olimpio, J LisbethDickinson, Howard  
Patten, BetseyMcConkey, Mark  
Philbrick, Donald

Merrow, Harry

**CHESHIRE**

Allen, Peter  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Webber, Amy

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Royce, H Charles  
Weed, Charles

Eaton, Daniel  
Manning, Joseph  
Pratt, John  
Smith, Edwin

Espiefs, Peter  
Meader, David  
Richardson, Barbara  
Tilton, Anna

**COOS**

King, Frederick  
Theberge, Robert

Mears, Edgar  
Tholl, John Jr

Poulin, Richard

Pratt, Leighton

**GRAFTON**

Alger, John  
Bleyler, Ruth  
Eaton, Stephanie  
Scovner, Nancy

Almy, Susan  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Barker, Robert  
Densmore, Edward  
Naro, Debra  
Williams, Burton

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

**HILLSBOROUGH**

Baroody, Benjamin  
Christensen, D L Chris  
Cote, Peter  
Drisko, Richard  
Gargas, Carolyn  
Haley, Robert  
Irwin, Anne-Marie  
Kurk, Neal  
Malloy, Chris  
Michon, Stephen  
Pappas, Christopher  
Schulze, Joan  
Sullivan, Peter

Beaton, William  
Clayton, William  
Craig, James  
Emerton, Larry  
Gorman, Mary  
Hallyburton, Margaret  
Johnson, Lionel  
Lasky, Bette  
McDonough-Wallace, Alice  
Mosher, William  
Pepino, Leo  
Shaw, Barbara  
Tate, Joan

Buckley, Raymond  
Clemons, Jane  
Crane, Elenore Casey  
Fletcher, Richard  
Graham, John  
Haytayan, Harry Jr  
Katsiantonis, Thomas  
Leach, Edward  
Mercer, Robert  
Movsesian, Lori  
Price, Pamela  
Spiess, Paul  
Vaillancourt, Steve

Carter, Mark  
Cote, David  
Dokmo, Cynthia  
Ford, Nancy  
Greenberg, Gary  
Holden, Randolph  
Kopka, Angeline  
Lessard, Rudy  
Messier, Irene  
Ober, Russell III  
Scanlon, Michael  
Sullivan, Francis

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
DeStefano, Stephen  
French, Barbara  
Hess, David  
Leber, William  
Maxfield, Roy  
Perkins, Randy  
Seldin, Gloria

Blanchard, Elizabeth  
Currier, David  
Dunne, Christopher  
Gile, Mary  
Jacobson, Alf  
Lockwood, Priscilla  
McCormick, Tom  
Potter, Frances  
Wallner, Mary Jane

Bouchard, Candace  
Davis, Frank  
Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
MacKay, James  
Osborne, Jessie  
Rodd, Beth

Brueggemann, Donald  
DeJoie, John  
Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Marple, Richard  
Owen, Derek  
Rush, Deanna

**ROCKINGHAM**

Abbott, Dennis  
Camm, Kevin  
DiFruscia, Anthony  
Gleason, John  
Langley, Jane  
McKinney, Betsy  
Pantelakos, Laura  
Smith, Donald  
Vallone, Matthew

Belanger, Ronald  
Casey, Kimberley  
Flanders, John Sr  
Gould, Kenneth  
Manning, John  
Norelli, Terie  
Rausch, James  
Splaine, James  
Weare, E Albert

Blanchard, MaryAnn  
Coes, Betsy  
Francoeur, Sheila  
Johnson, Robert  
McCann, Richard  
Noyes, Richard  
Robertson, Carl  
Stone, Joseph  
Welch, David

Bridle, Russell  
Cooney, Richard  
Gilbert, Jeffrey  
Kelley, Jane  
McEachern, Paul  
O'Neil, Michael  
Shultis, Elizabeth  
Tufts, J Arthur

**STRAFFORD**

Bemis, Alan  
Dunlap, Patricia

Bickford, David  
Grassie, Anne

Brown, Julie  
Heon, Richard

Creteau, Irene  
Hofemann, Roland

Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Spang, Judith

Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Knowles, William  
Rollo, Deanna  
Snyder, Clair

### SULLIVAN

Allison, David  
Ferland, Brenda  
and the motion failed.

Burling, Peter  
Franklin, Peter

Cloutier, John  
Phinizz, James

Donovan, Thomas

Rep. Hager moved Ought to Pass

Rep. Hagan requested a roll call; sufficiently seconded.

The question being adoption of Ought to Pass.

### YEAS 198 NAYS 146

#### YEAS 198

#### BELKNAP

Allen, Janet  
Russell, David

Bartlett, Gordon  
Thomas, John

Flanders, Donald  
Whalley, Michael

Pilliod, James

#### CARROLL

Babson, David Jr  
Olimpio, J Lisbeth

Dickinson, Howard  
Patten, Betsey

McConkey, Mark  
Philbrick, Donald

Morrow, Harry

#### CHESHIRE

Allen, Peter  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy  
Webber, Amy

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Royce, H Charles  
Weed, Charles

Eaton, Daniel  
Manning, Joseph  
Pratt, John  
Smith, Edwin

Espieffs, Peter  
Meador, David  
Richardson, Barbara  
Tilton, Anna

#### COOS

King, Frederick  
Tholl, John Jr

Mears, Edgar

Poulin, Richard

Theberge, Robert

#### GRAFTON

Alger, John  
Bleyler, Ruth  
Eaton, Stephanie  
Scovner, Nancy

Almy, Susan  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Barker, Robert  
Densmore, Edward  
Naro, Debra  
Solomon, Peter

Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon

#### HILLSBOROUGH

Baroody, Benjamin  
Carter, Mark  
Cote, David  
Dokmo, Cynthia  
Ford, Nancy  
Greenberg, Gary  
Infantine, William  
Katsiantonis, Thomas  
Lawrence, James  
Mercer, Robert  
Movsesian, Lori  
Scanlon, Michael  
Sullivan, Francis

Barry, J Gail  
Christensen, D L Chris  
Cote, Peter  
Drisko, Richard  
Gargas, Carolyn  
Hallyburton, Margaret  
Irwin, Anne-Marie  
Kopka, Angeline  
Leach, Edward  
Messier, Irene  
Ober, Russell III  
Schulze, Joan  
Sullivan, Peter

Beaton, William  
Clayton, William  
Craig, James  
Emerton, Larry  
Gorman, Mary  
Haytayan, Harry Jr  
Jasper, Shawn  
Kurk, Neal  
Malloy, Chris  
Michon, Stephen  
Pappas, Christopher  
Shaw, Barbara  
Tate, Joan

Buckley, Raymond  
Clemons, Jane  
Crane, Elenore Casey  
Fletcher, Richard  
Graham, John  
Holden, Randolph  
Johnson, Lionel  
Lasky, Bette  
McDonough-Wallace, Alice  
Mosher, William  
Price, Pamela  
Spiess, Paul  
Vaillancourt, Steve

#### MERRIMACK

Anderson, Eric  
Clarke, Claire

Blanchard, Elizabeth  
Currier, David

Bouchard, Candace  
Davis, Frank

Brueggemann, Donald  
DeJoie, John

DeStefano, Stephen  
French, Barbara  
Hess, David  
Leber, William  
Maxfield, Roy  
Perkins, Randy  
Seldin, Gloria

Dunne, Christopher  
Gile, Mary  
Jacobson, Alf  
Lockwood, Priscilla  
McCormick, Tom  
Potter, Frances  
Wallner, Mary Jane

Foley, Albert  
Hager, Elizabeth  
Kenison, Leon  
MacKay, James  
Osborne, Jessie  
Rodd, Beth

Fraser, Leo Jr  
Hamm, Christine  
L'Heureux, Stephen  
Marple, Richard  
Owen, Derek  
Rush, Deanna

### ROCKINGHAM

Abbott, Dennis  
Camm, Kevin  
DiFruscia, Anthony  
Gleason, John  
Langley, Jane  
McKinney, Betsy  
Rausch, James  
Splaine, James

Belanger, Ronald  
Casey, Kimberley  
Flanders, John Sr  
Gould, Kenneth  
Manning, John  
Norelli, Terie  
Robertson, Carl  
Stone, Joseph

Blanchard, MaryAnn  
Coes, Betsy  
Francoeur, Sheila  
Johnson, Robert  
McCann, Richard  
O'Neil, Michael  
Shultis, Elizabeth  
Tufts, J Arthur

Bridle, Russell  
Cooney, Richard  
Gilbert, Jeffrey  
Kelley, Jane  
McEachern, Paul  
Pantelakos, Laura  
Smith, Donald

### STRAFFORD

Bickford, David  
Grassie, Anne  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Brown, Julie  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Snyder, Clair

Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Spang, Judith

### SULLIVAN

Allison, David  
Ferland, Brenda

Burling, Peter  
Franklin, Peter

Cloutier, John  
Phinizy, James

Donovan, Thomas

### NAYS 146

### BELKNAP

Ahern, Omer Jr  
Holbrook, Robert  
Wendelboe, Fran

Boyce, Laurie  
Laflam, Robert

Clark, Charles  
Nedeau, Stephen

Fitzgerald, James  
Rice, Thomas

### CARROLL

Brown, Carolyn  
Stevens, Stanley

Derby, Mark

Kenney, Bettie

Mock, Henry

### CHESHIRE

Dexter, Judson

Fish, Douglas

Laurent, John

### COOS

Guay, Lawrence

Pratt, Leighton

Stohl, Eric

Woodward, David

### GRAFTON

Dorsett, Andrew  
Ingbretson, Paul

Dudley, Terri  
Maybeck, Margie

Gilman, G Michael  
Sorg, Gregory

Giuda, Robert  
Williams, Burton

### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Brundige, Robert  
Cernota, Albert  
Desmarais, Vivian  
Gibson, John

Allan, Nelson  
Balboni, Michael  
Bruno, Pierre  
Chabot, Robert  
Dionne, Kimberley  
Gonzalez, Carlos

Allen, Timothy  
Batula, Peter  
Buhlman, David  
Christiansen, Lars  
Elliott, Larry  
Goyette, Peter Jr

Arnold, Thomas Jr  
Bergeron, Jean-Guy  
Carlson, Donald  
Coughlin, Pamela  
Fields, Dennis  
Hagan, Barbara



Haley, Robert  
Hawkins, Ken  
LaFlamme, Paul  
McElroy, Henry Jr  
O'Brien, Lori  
Reeves, Sandra  
Stepanek, Stephen

Hall, Charles  
Hinkle, Peyton  
Lessard, Rudy  
McHugh, Claire  
Pappas, Marc  
Rowe, Robert  
Sweeney, Cynthia

Hansen, Ryan  
Hopper, Gary  
Luebker, Bernard  
Mooney, Maureen  
Pepino, Leo  
Slocum, Lee  
Wheeler, James

Harrington, Paul  
L'Heureux, Robert  
Martin, Mary Ellen  
Moran, Edward  
Pilotte, Maurice  
Souza, Kathleen  
Wheeler, Robert

### MERRIMACK

Field, William  
Oliver, James

Kennedy, Richard  
Reed, Dennis

Langer, Ray  
Soltani, Tony

Nutter, Edward

### ROCKINGHAM

Allen, Mary  
Carson, Sharon  
Duffy, James  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Letourneau, Robert  
Packard, Sherman  
Roessner, Kurt  
Weare, E Albert  
Wiley, Robert

Bicknell, Elbert  
Clark, Vivian  
Fesh, Bob  
Hamel, Albert  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
Priestley, Anne  
Vallone, Matthew  
Welch, David  
Zolla, William

Bishop, Franklin  
Dodge, Robert  
Gilbert, Karl  
Headd, James  
Introne, Robert  
Kobel, Rudolph  
Morris, Richard  
Putnam, Ed II  
Varrell, Thomas  
Weldy, Norman Jr

Cady, Harriet  
Dowd, John  
Gillick, Thomas  
Holland, James Jr  
Johnson, Rogers  
Langone, John  
Noyes, Richard  
Quandt, Matthew  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Newton, Clifford

Bemis, Alan  
Easson, Timothy  
Scott, David

Berube, Roger  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Hollinger, Jeffrey  
Woods, Phyllis

### SULLIVAN

Flint, Gordon Sr  
and the motion was adopted.

Jones, Constance

Leone, Richard

Rodeschin, Beverly

Ordered to third reading.

The House recessed at 12:05 p.m.

### RECESS

### (Speaker Chandler in the Chair)

The House reconvened at 1:15 p.m.

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 53, 1355 and 1410 and Senate Bills numbered 335, 451 and 467.

Rep. Currier, Sen. D'Allesandro for the Committee

### SENATE MESSAGES

### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 1282**, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees. (Amendment printed SJ 04/29/04)

Rep. Hunt moved that the House nonconcur and request a Committee of Conference. Adopted.

The Speaker appointed Reps. Hunt, Fraser, Spiess and DeStefano.

**HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (Amendment printed SJ 04/29/04)

Rep. Welch moved that the House nonconcur and request a Committee of Conference. Adopted.

The Speaker appointed Reps. Knowles, Welch, Bemis and Bicknell.

**HB 1226-L**, establishing a debt retirement fund in the Governor Wentworth regional school district. (Amendment printed SJ 04/22/04)

Rep. Stephen L'Heureux moved that the House concur and spoke in favor.

Adopted.

### REGULAR CALENDAR (CONT'D.)

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies. **ought to pass with amendment**

Rep. Michael O'Neil for Executive Departments and Administration: This bill shifts certain responsibilities among agencies with the goal of improving the general efficiency of state government. These improvements bring together the administration and enforcement of Bingo and Lucky 7 regulation in one agency, the pari-mutuel Commission (currently these duties are divided between the Sweepstakes Commission and the Department of Safety), moving the Bureau of Environmental and Occupational Health from the Department of Health and Human Services to the Department of Environmental Services, and transferring the New Hampshire Estuaries Project and the Coastal Zone Management Program from the Office of State Planning and Energy Programs to the Department of Environmental Services. The bill also brings the appointing process for unclassified employees in the Department of Environmental Services and the Department of Education in line with other high level appointments. The standard used in other agencies is that the Governor appoints commissioners with the consent of the Executive Council and commissioners nominate division directors for appointment by the Governor and Executive Council. The Senate version of this bill also included a reorganization plan for the Department of Revenue Administration and a transfer of the Division of Public Works from the Department of Transportation to the Department of Administrative Services. The House amendment establishes study committees on these two changes. In addition, the House amendment removes provisions transferring the State Hospital Security Force from the Department of Health and Human Services to the Department of Safety and transferring the responsibility of issuing retail tobacco licenses from the Department of Revenue Administration to the Liquor Commission. The House amendment also establishes an intermediary appeals process for disciplinary actions taken by state boards and commissions. Under this process, an aggrieved party may appeal a board or commission decision to the highest ranking official of the agency to which the board or commission is administratively attached. Vote 15-0.

### Amendment (1439h)

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Safety; Duties of Commissioner. Amend RSA 21-P:4, VI to read as follows:

VI. Have the discretion to grant to bingo and lucky 7 inspectors within ~~his department~~ *the pari-mutuel commission* certain limited police powers as follows:

2 Police Standards and Training Council; Education and Training. Amend RSA 188-F:27, VI and VII to read as follows:

VI. Any investigator who has the power to enforce the criminal laws under RSA 106-A and RSA 287-E and rules of the sweepstakes commission ~~and~~, *the* department of safety, *or the pari-mutuel commission* and who was serving under a permanent appointment prior to July 1, 1986, shall not be required to meet the requirements of paragraphs I and III; however, any investigator referred to in this paragraph shall complete such limited programs as may be prescribed by the police standards and training council under this section within one year of the date the programs are required. Should any investigator exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the department of safety and be hired as a police officer by another police department of the state or a political subdivision thereof, the inspector's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe.

VII. Any special agent of the state liquor commission who has the power to enforce the criminal laws under RSA title XIII *or RSA 287-E* and rules of the state liquor commission and who was serving under a permanent appointment prior to August 13, 1985, shall not be required to meet the requirements of paragraphs I and III; however, any special agent referred to in this paragraph shall complete such limited programs as may be prescribed by rule adopted under RSA 541-A by the police standards and training council under this section within one year of the date the programs are required. Should any special agent exempted from the requirements of paragraphs I and III of this section by this paragraph terminate employment with the state liquor commission and

be hired as a police officer by another police department of the state or a political subdivision thereof, the special agent's certification shall lapse and may be reinstated upon completion of such necessary additional training courses as the police standards and training council may prescribe by rule adopted under RSA 541-A.

3 New Paragraph; Pari-Mutuel Commission; Additional Duties. Amend RSA 284:6-a by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall administer RSA 287-E relating to bingo and lucky 7.

4 New Paragraph; Pari-Mutuel Commission; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

5 New Subparagraph; Purchase of Supplies; Exemption. Amend RSA 21-I:18, I by inserting after subparagraph (m) the following new subparagraph:

(n) The purchase of gaming tickets and their dispensing equipment by the pari-mutuel commission under RSA 287-E. The pari-mutuel commission shall make such purchases under competitive bidding requirements, except when waived by the pari-mutuel commission or its authorized agent with written justification.

6 Sweepstakes Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Sweepstakes Commission. There shall be and hereby is created a state sweepstakes commission consisting of 3 members who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. One member shall be appointed for one year, one for 2 years and one for 3 years, and upon the expiration of their terms of office their successors shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. No member of the commission shall have any pecuniary or other interest in any supplier or agent to the commission[, or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,] or in any licensee licensed under the provisions of this chapter.

7 Sweepstakes Commission. Amend RSA 284:21-i, I to read as follows:

I. The sweepstakes commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission[, or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,] or in any licensee licensed under this chapter.

8 Sweepstakes Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the sweepstakes commission *and all moneys received from the pari-mutuel commission under RSA 287-E*, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and *all administration and enforcement expenses of the pari-mutuel commission under RSA 287-E*. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

9 Reference Change; Raffles Held in Conjunction With Bingo Games. Amend RSA 287-A:8, III to read as follows:

III. Notwithstanding RSA 287-A:4, raffle tickets sold in conjunction with bingo games shall be sold only by members of a charitable organization licensed by the [sweepstakes] *pari-mutuel* commission to conduct bingo and only at bingo games being operated by the charitable organization.

10 Bingo and Lucky 7; Definitions. Amend RSA 287-E:1, VI to read as follows:

VI. "Commission" means the state [sweepstakes] *pari-mutuel* commission.

11 Bingo; Administration and Enforcement. Amend RSA 287-E:2 to read as follows:

287-E:2 Administration and Enforcement. The [sweepstakes] *pari-mutuel* commission shall administer and [the commissioner of safety shall] enforce this subdivision relating to bingo.

12 Lucky 7; Administration and Enforcement. Amend RSA 287-E:16 to read as follows:

287-E:16 Administration and Enforcement. The [sweepstakes] *pari-mutuel* commission shall administer and [the commissioner of safety shall] enforce this subdivision relating to the sale of lucky 7 tickets.

13 New Paragraph; Bingo and Lucky 7; Rulemaking. Amend RSA 287-E:18 by inserting after paragraph V the following new paragraph:

VI. The inspection and enforcement of bingo and lucky 7.

14 Gambling Offenses; Exceptions. Amend RSA 647:2, V(a) to read as follows:

(a) Dispenser devices approved by the [~~sweepstakes~~] *pari-mutuel* commission which are located at the regular meeting place of, or at a facility owned, leased, or utilized by, a charitable organization licensed under RSA 287-E:20.

15 Repeal. The following are repealed:

I. RSA 21-P:7, III, relative to bingo and lucky 7 inspection and enforcement by the state police.

II. RSA 21-P:14, II(q), relative to bingo and lucky 7 inspection and enforcement by the department of safety.

16 Transfer of Authority. The *pari-mutuel* commission shall assume all authority, functions, duties, and responsibilities of the sweepstakes commission regarding the administration, licensing, and enforcement of RSA 287-E. All existing rules adopted by the sweepstakes commission for the administration, licensing, and enforcement of RSA 287-E shall remain in effect and be enforced by the *pari-mutuel* commission.

17 Transfer; Status of State Employees.

I. Classified employees of the sweepstakes commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the *pari-mutuel* commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the sweepstakes commission for administration and licensing of bingo and lucky 7. The transfer provided for in this paragraph shall include the following personnel from the sweepstakes commission: position numbers 14418, 14424, and 14393.

II. Classified employees of the department of safety responsible for the enforcement of the bingo and lucky 7 laws shall be transferred to the *pari-mutuel* commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the gaming enforcement unit for enforcement of the bingo and lucky 7 laws. The transfer provided for in this paragraph shall include the following personnel from the department of safety: position numbers 14425, 14402, 17114, 17116, and 14410.

18 Transfer of Certain Public Health Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, and except as provided in paragraph III, all of the functions, powers, duties, and responsibilities of the bureau of environmental and occupational health within the office of community and public health, department of health and human services shall be transferred to the department of environmental services on July 1, 2004. The transfer shall include the following personnel presently assigned to the bureau of environmental and occupational health: position numbers 19631, 19632, 14681, 14806, 14817, 17147, 18461, 18996, 18997, 19641, 19700, 40339, 8T020, 9T027, 9T099, 9T179, 9T195, 9T296, 18999, 1900, 40342, 9T112, 9T113, and 9T729. The transfer shall also include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the department of health and human services, office of community and public health, related to the above functions and authorized for use by the bureau of environmental and occupational health.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation or adopted in or by the former department of health and human services, bureau of environmental and occupational health are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The duties and responsibilities of the department of health and human services under RSA 130-A, relative to lead paint poisoning prevention and control, except for licensure and certification duties and responsibilities under RSA 130-A:12, shall be exempt from the transfers made in paragraphs I and II.

19 Department of Environmental Services; Appointment of Division Directors. RSA 21-O:2, III is repealed and reenacted to read as follows::

III. Division directors shall be appointed to terms of 4 years.

(a) The commissioner shall, after consulting with the water council, nominate for appointment by the governor and council a director of the division of water. The nominee shall have a baccalaureate or master's degree from an accredited college or university, hold a valid license or certificate of registration to practice civil, sanitary, or environmental engineering issued by the lawfully constituted registration board of any state of the United States, and shall have a minimum of 5 years' responsible experience in the administration of sanitary or environmental engineering programs in the public or private sector.

(b) The commissioner shall, after consulting with the air resources council, nominate for appointment by the governor and council a director of air resources. Each nominee shall hold a baccalaureate or master's degree from a recognized college or university with a major study in environmental sciences, chemistry, engineering, public health, public administration or a related field, and have 5 years' experience in a high supervisory or administrative position in a public or private agency engaged in air quality, air pollution control, environmental planning, engineering project management or a related discipline.

(c) The commissioner shall, after consulting with the waste management council, nominate for appointment by the governor and council a director of waste management. Each nominee shall hold a master's degree from a recognized college or university with major study in environmental sciences, chemistry, civil engineering, public health, public administration or a related field, and have 5 years' experience in a high level supervisory or administrative position in a public or private agency engaged in waste management, environmental health or a related discipline.

20 Transfer of Certain Programs From Office of State Planning and Energy Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, all of the functions, powers, duties, and responsibilities of the office of state planning and energy programs relating to the coastal zone management program and the New Hampshire estuaries project shall be transferred to the department of environmental services. The transfer provided for in this section shall include the following personnel from the coastal zone management program: position numbers 40468, 40469, 10027, 30001, 9T006, 16669 and 16670 and from the estuaries project: position numbers 9T003, 9T005 and 9Temp. The transfer provided in this section, shall include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the office of state planning and energy programs related to the above functions and authorized for use by the office of state planning and energy programs for said programs.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation, or adopted in or by the former coastal zone management program and New Hampshire estuaries program are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The department of environmental services shall be considered a temporary host for the New Hampshire estuaries project. The management committee of the estuaries project shall report to the speaker of the house of representatives and the president of the senate by December 1, 2004 recommending a permanent host for the project. Nothing in this section shall preclude the department of environmental services from becoming the permanent host.

21 Compensation of Commissioner and Assistant Commissioner of the Department of Environmental Services; Review. The unclassified salaries of the commissioner and assistant commissioner, department of environmental services shall be reviewed by the fiscal committee pursuant to the procedure in RSA 94:1-d and RSA 14:30-a.

22 Mooring of Boats; Denial of Mooring Permit. Amend RSA 270:61, VI to read as follow:

VI. The department shall not deny a mooring permit to any person, or place any limitations on the type of craft permitted at a mooring, when reasonable need exists, there is no opposition from abutters, ~~and~~ there is no evidence that the mooring will interfere with navigation, *and the mooring is in compliance with RSA 270:64.*

23 New Paragraph; Moorings Prohibited. Amend RSA 270:64 by inserting after paragraph II the following new paragraph:

III. The director shall consult with the fish and game department, the department of environmental services, or the office of state planning and energy programs to assist in the assessment required under subparagraph I(c).

24 Moorings; Special Exceptions. Amend RSA 270:65 to read as follows:

270:65 Special Exceptions. The division of safety services [~~in consultation with the office of state planning and energy programs,~~] shall propose rules to develop standards for granting special exceptions for the placement of from 2 to 4 moorings adjacent to a shorefront property. The placement of 5 or more moorings adjacent to a shorefront property shall require approval pursuant to RSA 270:67, I and II.

25 Public and Congregate Mooring Fields; Permit Required. Amend RSA 270:67 to read as follows:

270:67 Public and Congregate Mooring Fields; Permit Required.

#### I. PUBLIC MOORING FIELDS.

(a) The [~~office of state planning and energy programs and the~~] division of safety services shall identify suitable locations for public mooring fields and prioritize the need for the development of such sites. In determining said locations [~~the office of state planning and energy programs and~~] the division of safety services shall recommend each location size and the configuration of each public mooring field. Further, it shall be determined by the [~~office of state planning and energy programs and~~] division of safety services that adequate access exists to serve the needs of the users of the public mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said site proposal may be conducted by the [~~office of state planning and energy programs~~] *division of safety services*. The [~~office of state planning and energy programs and the~~] division of safety services shall review all recommendations received and submit their final site proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) The division shall issue a permit to any applicant for a mooring in a public mooring field who fulfills the mooring requirements in this subdivision subsequent to approval under subparagraph (a).

(c) Each public mooring field applicant shall be assessed a fee of \$25 which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

(d) No mooring shall be sold or leased except as provided in this section.

#### II. CONGREGATE MOORING FIELDS.

(a) The [~~office of state planning and energy programs and~~] division of safety services may identify suitable locations for congregate mooring fields. In determining said locations [~~the office of state planning and energy programs and~~] the division of safety services shall recommend each location size and the configuration of each congregate mooring field. Further, it shall be determined by the [~~office of state planning and energy programs and~~] division of safety services that adequate access exists to serve the needs of the users of the congregate mooring field. Said site proposal shall then be transmitted to the respective political subdivision or subdivisions in which the proposed mooring field is to be located, where a public hearing on said proposal may be conducted by the [~~office of state planning and energy programs~~] *division of safety services*. The [~~office of state planning and energy programs and the~~] division of safety services shall review all recommendations received and submit their final proposal to governor and council for approval. All such recommendations shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvement programs of the adjacent municipality.

(b) Subsequent to approval by the governor and council, the division shall issue a permit to any applicant for a congregate mooring field who shows that:

(1) The location and size of the congregate mooring field meet the criteria established pursuant to RSA 270:71; and

(2) Adequate access exists to serve the needs of the users of the congregate mooring field; and

(3) The congregate mooring field will comply with the provisions of RSA 270:64; and

(4) No mooring shall be sold or leased except as provided in this section.

(c) Each congregate mooring field permitted by the director shall be assessed an annual mooring fee of \$25 for each mooring installed in the congregate mooring field which shall be deposited in the navigation safety fund established under RSA 270-E:6-a.

(d) Operators in charge of maintaining congregate mooring fields may charge no more for the use of a mooring than an amount which reasonably covers the costs of mooring installations and maintenance. Said charges shall be reported to the [~~office of state planning and energy programs and the~~] division of safety services who shall submit an annual report to the governor and council and the general court on all congregate mooring fields.

III. Notwithstanding RSA 270:61, III, small mooring sites may be established without the approval of governor and council, but subject to the approval of the division. Such sites shall be only for the use of motels, cottages, condominiums, other rental property, or homogeneous use group.

26 Mooring Areas; Designation. Amend RSA 270:68, I to read as follows:

I. The division shall [~~after consultation with the office of state planning and energy programs,~~] determine the need and suitable locations, size, and configuration for mooring areas. The director shall designate appropriate mooring areas and assign mooring sites within such designated areas to individuals who meet all other requirements of this subdivision and can demonstrate a need for a site in such area. All designated mooring areas shall be consistent with any existing master plans, zoning ordinances, wetlands conservation district ordinances, and capital improvements programs of the adjacent municipality.

27 Committee Established to Study Reorganization of Department of Revenue Administration.

I. There is established a committee to study the reorganization of the department of revenue administration.

II.(a) The members of the committee shall be as follows:

(1) Four members of the house of representatives, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

(a) Study the benefits of the reorganization of the department of revenue administration.

(b) Study the fiscal impact of any reorganization of the department of revenue administration.

(c) Address issues raised in the most recent performance audit of the department of revenue administration.

(d) Study any other matter the committee deems relevant.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. Report. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2004.

28 Department of Transportation; Division of Aeronautics Changed to Division of Aeronautics, Rail, and Transit. Amend the introductory paragraph of RSA 21-L:7 to read as follows:

21-L:7 Division of Aeronautics, **Rail, and Transit**. There is established within the department the division of aeronautics, **rail, and transit**, under the supervision of an unclassified director of aeronautics, **rail, and transit**, who shall be responsible for the following functions:

29 New Paragraph; Department of Transportation; Division of Aeronautics, Rail, and Transit. Amend RSA 21-L:7 by inserting after paragraph VI the following new paragraph:

VII. Planning, designing, and facilitating construction, and servicing rail and transit facilities including but not limited to pedestrian, bicycle, transit, rideshare, and railroad modes.

30 Change From Division of Aeronautics to Division of Aeronautics, Rail, and Transit. Amend the following RSA provisions by replacing "division of aeronautics" and "aeronautics division" with "division of aeronautics, rail, and transit": 72:38, I-III; 21-L:8, III and V; 422:3, XIX; 422:39; 423:11, III; 423-A:3.

31 Change From Director of Aeronautics to Director of Aeronautics, Rail, and Transit. Amend the following RSA provisions by replacing "director of aeronautics" with "director of aeronautics, rail, and transit": 21-L:8, VI; 94:1-a, I(b) FF; 149-H:1, I(g); 270:12, II; 422:6; 422:38, II and IV.

32 Commission Established to Study Transfer of Division of Public Works From Department of Transportation to Bureau of Public Works in Department of Administrative Services and Reorganization of Department of Transportation.

I. There is established a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation.

II.(a) The members of the commission shall be as follows:

(1) Five members of the house of representatives, one of whom shall be a member of the executive departments and administration committee, one of whom shall be a member of the finance committee, and 2 of whom shall be members of the public works and highways committee, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(3) The commissioner of transportation, or designee.

(4) The commissioner of administrative services, or designee.

(b) Members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2004.

33 Change From Commissioner of Public Works and Highways to Commissioner of Transportation. Amend the following RSA provisions by replacing "commissioner of public works and highways" and "commissioner, public works and highways" with "commissioner of transportation": 12-A:5, I(b) and V; 14:15-b; 37:6, VII; 48-B:2; 215-A:8; 216-B:3; 216-B:5; 216-B:6; 216-C:2; 216-C:5; 216-C:6; 265:22; 266:72, V(a); 472:5.

34 Change From Department of Public Works, Department of Public Works and Highways, and Public Works and Highways Department to Department of Transportation. Amend the following RSA provisions by replacing "department of public works", "department of public works and highways," and "public works and highways department" with "department of transportation": 21-I:12, II(c) and (d); 21-I:8, I(e); 153:10; 162-B:3, III; 210:11, IV; 216-B:6; 216-C:6; 217:1; 237:17, VIII; 284:21-h, II(b); 447:17; 498-A:21, II.

35 Authority Over State House Rooms. Amend RSA 14:14-b, III to read as follows:

III. All rooms and other spaces in the basement and on the first and third floors of the state house [~~with the exception of rooms numbered 122, 123 and 124 and the passageway immediately adjacent thereto~~].

36 Bioterrorism Positions Transferred From Department of Health and Human Services to Department of Safety. Notwithstanding any provision of law to the contrary, all of the positions in the department of health and human services, office of community and public health that provide all hazards emergency preparedness services as defined in a memorandum of understanding dated September 4, 2003 between the department of health and human services and the department of safety shall be transferred to the department of safety. The transfer provided for in this section shall include the following personnel: Position numbers 9T126, 9T196, 9T107, 9T148, 9T149, 9T106, 9T153, 9T125, 9T098, 9T150, 9T120, 17142, 16147, and 2 part-time temporary positions.

37 Capital Budget Overview Committee; Duties. Amend RSA 17-J:4 to read as follows:

17-J:4 Duties. The capital budget overview committee shall review the status of capital budget projects both during and between legislative sessions. Each state agency with capital budget projects shall submit to the committee a status report on the projects every 60 days. ***The administrator of public works shall, within 30 days of the approval of funding for any capital budget project, submit a timeline or schedule for such project to the capital budget overview committee for review.***

38 New Subdivision; Department of Cultural Resources; New Hampshire Film and Television Commission. Amend RSA 21-K by inserting after section 22 the following new subdivision:  
New Hampshire Film and Television Commission

21-K:23 Commission Established; Members; Duties.



I. There is established a New Hampshire film and television commission within the department of cultural resources. The purposes of the commission shall be:

(a) To promote the economic development of the film and television industry in New Hampshire.

(b) To promote the utilization of location sites by the film and television industry in the state of New Hampshire.

(c) To increase the use of New Hampshire hotels, restaurants, and local businesses by visiting film and television production companies.

II. The commission shall:

(a) Identify opportunities for activities related to the film and television industries.

(b) Recommend both long-range and short-term programs that will result in economic gain for the state.

(c) Educate state, local, and private officials and organizations regarding the benefits and rewards that can result from increased development of this industry.

(d) Secure sites, as appropriate, within the state suitable for filming by the motion picture industry, the television industry, independent film producers, and other filmmakers.

III. The members of the commission, all of whom, except for the commissioner of the department of resources and economic development or designee, shall be appointed by the commissioner of the department of cultural resources, shall be as follows:

(a) Three individuals representing the film and television industry.

(b) Two members of the general public with an interest in the film industry.

(c) The commissioner of the department of cultural resources, or designee, and the commissioner of the department of resources and economic development, or designee, who shall serve as ex officio members of the commission.

IV. Except for the commissioner of cultural resources and the commissioner of resources and economic development or their designees, the term of office for the members shall be 3 years and until a successor is appointed. The initial members of the commission shall serve staggered terms. Vacancies shall be filled in the same manner and for the unexpired terms. The members of the commission shall serve without compensation, but shall be reimbursed for necessary travel and other necessary expenses.

V. The members shall annually elect a person from among its membership to act as chairperson.

VI. The department of cultural resources shall cooperate with the commission and shall provide necessary information and staff support.

39 Repeal. RSA 12-A:41-a, relative to the New Hampshire film and television commission, is repealed.

40 Appointments: Department of Education. RSA 21-N:3, I and II are repealed and reenacted to read as follows:

I. The governor, after consultation with the board of education, shall appoint the commissioner and the deputy commissioner of the department of education with the consent of council. Each shall serve for a term of 4 years. The commissioner and the deputy commissioner may succeed himself or herself, if reappointed. The commissioner and deputy commissioner shall be qualified to hold their positions by reason of education and experience.

II. The commissioner, after consultation with the board of education, shall nominate each division director for appointment by the governor and council. The division directors shall serve for a term of 4 years. They may succeed themselves, if reappointed. The directors shall be qualified to hold their respective positions by reason of education and experience.

41 Applicability. Section 40 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

42 New Section; Intermediary Appeals. Amend RSA 332-G by inserting after section 4 the following new section:

332-G:5 Intermediary Appeals. Notwithstanding any other provision of law to the contrary, any person affected by the final decision of any board or regulatory commission may appeal such final decision to the highest ranking official of the department to which the board or commission is administratively attached, prior to appeal to any court.

43 Effective Date.

I. Sections 27 and 32-35 of this act shall take effect upon its passage.

II. Section 42 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

### AMENDED ANALYSIS

This bill:

I. Transfers administration and enforcement of bingo and lucky 7 to the pari-mutuel commission.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Changes the appointment authority for department of education officials.

XIV. Permits an appeal from the final decision of a board or regulatory commission to the highest ranking official of the department to which the board or commission is administratively attached. Adopted.

Rep. Hager offered a floor amendment (1491h).

### Floor Amendment (1491h)

Amend the bill by replacing sections 1-13 with the following:

1 New Paragraph; Pari-Mutuel Commission; Additional Duties. Amend RSA 284:6-a by inserting after paragraph III the following new paragraph:

IV. The pari-mutuel commission shall administer RSA 287-E relating to bingo and lucky 7.

2 New Paragraph; Pari-Mutuel Commission; Rulemaking. Amend RSA 284:12 by inserting after paragraph VI the following new paragraph:

VII. Rules for bingo and lucky 7 as authorized under RSA 287-E.

3 New Subparagraph; Purchase of Supplies; Exemption. Amend RSA 21-I:18, I by inserting after subparagraph (m) the following new subparagraph:

(n) The purchase of gaming tickets and their dispensing equipment by the pari-mutuel commission under RSA 287-E. The pari-mutuel commission shall make such purchases under competitive bidding requirements, except when waived by the pari-mutuel commission or its authorized agent with written justification.

4 Sweepstakes Commission. Amend RSA 284:21-a to read as follows:

284:21-a State Sweepstakes Commission. There shall be and hereby is created a state sweepstakes commission consisting of 3 members who shall be appointed and may be removed for cause by the governor with the advice and consent of the council. One member shall be appointed for one year, one for 2 years and one for 3 years, and upon the expiration of their terms of office their successors shall be appointed for a term of 3 years. Any vacancy shall be filled by appointment for the unexpired term. The members shall serve until their successors are appointed and qualified. No member of the commission shall have any pecuniary or other interest in any supplier or agent

to the commission[~~or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,~~] or in any licensee licensed under the provisions of this chapter.

5 Sweepstakes Commission. Amend RSA 284:21-i, I to read as follows:

I. The sweepstakes commission shall be empowered to employ such technical assistants and employees to carry out the provisions of this subdivision as the governor and council shall authorize. Such assistants and employees shall receive compensation at rates to be established by the personnel commission. No employee of the commission shall have any pecuniary or other interest in any supplier or agent to the commission[~~or in any supplier or lessor of bingo equipment or halls, or in any officer of a bingo licensee licensed under RSA 287-E,~~] or in any licensee licensed under this chapter.

6 Sweepstakes Commission. Amend RSA 284:21-j, I to read as follows:

I. The state treasurer shall credit all moneys received from the sweepstakes commission *and all moneys received from the pari-mutuel commission under RSA 287-E*, and interest received on such moneys, to a special fund from which the treasurer shall pay all expenses of the commission incident to the administration of this subdivision and *all administration expenses of the pari-mutuel commission under RSA 287-E*. Any balance left in such fund after such expenses are paid shall be deposited in the education trust fund established under RSA 198:39.

7 Reference Change; Raffles Held in Conjunction With Bingo Games. Amend RSA 287-A:8, III to read as follows:

III. Notwithstanding RSA 287-A:4, raffle tickets sold in conjunction with bingo games shall be sold only by members of a charitable organization licensed by the [sweepstakes] *pari-mutuel* commission to conduct bingo and only at bingo games being operated by the charitable organization.

8 Bingo and Lucky 7; Definitions. Amend RSA 287-E:1, VI to read as follows:

VI. "Commission" means the state [sweepstakes] *pari-mutuel* commission.

9 Bingo; Administration and Enforcement. Amend RSA 287-E:2 to read as follows:

287-E:2 Administration and Enforcement. The [sweepstakes] *pari-mutuel* commission shall administer and the commissioner of safety shall enforce this subdivision relating to bingo.

10 Lucky 7; Administration and Enforcement. Amend RSA 287-E:16 to read as follows:

287-E:16 Administration and Enforcement. The [sweepstakes] *pari-mutuel* commission shall administer and the commissioner of safety shall enforce this subdivision relating to the sale of lucky 7 tickets.

11 Gambling Offenses; Exceptions. Amend RSA 647:2, V(a) to read as follows:

(a) Dispenser devices approved by the [sweepstakes] *pari-mutuel* commission which are located at the regular meeting place of, or at a facility owned, leased, or utilized by, a charitable organization licensed under RSA 287-E:20.

12 Transfer of Authority. The pari-mutuel commission shall assume all authority, functions, duties, and responsibilities of the sweepstakes commission regarding administration and licensing under RSA 287-E. All existing rules adopted by the sweepstakes commission for administration and licensing under RSA 287-E shall remain in effect and be enforced by the pari-mutuel commission.

13 Transfer; Status of State Employees. Classified employees of the sweepstakes commission responsible for the administration and licensing of bingo and lucky 7 shall be transferred to the pari-mutuel commission. The transfer provided for in this section shall include all of the personnel, books, papers, records, equipment, unexpended appropriations, or other available funds, property, or obligations of any kind of the sweepstakes commission for administration and licensing of bingo and lucky 7. The transfer provided for in this paragraph shall include the following personnel from the sweepstakes commission: position numbers 14418, 14424, and 14393.

Amend the bill by deleting sections 14-17 and renumbering sections 18-43 to read as 15-40, respectively.

Amend the bill by replacing section 38 with the following:

38 Applicability. Section 37 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

Amend the bill by replacing section 40 with the following:

40 Effective Date.

I. Sections 24 and 29-32 of this act shall take effect upon its passage.

II. Section 39 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

## AMENDED ANALYSIS

This bill:

- I. Transfers administration of bingo and lucky 7 to the pari-mutuel commission.
  - II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.
  - III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.
  - IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services.
  - V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.
  - VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.
  - VII. Establishes a committee to study the reorganization of the department of revenue administration.
  - VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.
  - IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.
  - X. Transfers certain state house rooms from the executive branch to the legislative branch.
  - XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.
  - XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.
  - XIII. Changes the appointment authority for department of education officials.
  - XIV. Permits an appeal from the final decision of a board or regulatory commission to the highest ranking official of the department to which the board or commission is administratively attached.
- Rep. O'Neil spoke against.
- Rep. Hager spoke in favor and yielded to questions.
- On a division vote, 136 members having voted in the affirmative and 194 in the negative, floor amendment (1491h) failed.
- Rep. Espieffs requested a roll call; sufficiently seconded.
- The question being adoption of the committee report.

## YEAS 246 NAYS 89

## YEAS 246

## BELKNAP

Allen, Janet  
Flanders, Donald  
Rice, Thomas  
Whalley, Michael

Bartlett, Gordon  
Holbrook, Robert  
Russell, David

Clark, Charles  
Nedeau, Stephen  
Thomas, John

Fitzgerald, James  
Pilliod, James  
Wendelboe, Fran

## CARROLL

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

## CHESHIRE

Allen, Peter  
Laurent, John  
Smith, Edwin

Dexter, Judson  
Liebl, George  
Tilton, Anna

Fish, Douglas  
Pratt, John  
Webber, Amy

Hunt, John  
Royce, H Charles

## COOS

Guay, Lawrence  
Tholl, John Jr

King, Frederick  
Woodward, David

Pratt, Leighton

Stohl, Eric

**GRAFTON**

Alger, John	Barker, Robert	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Giuda, Robert	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie	Naro, Debra	Solomon, Peter	Sorg, Gregory
Williams, Burton			

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence
Balboni, Michael	Barry, J Gail	Beaton, William	Bergeron, Jean-Guy
Brundige, Robert	Bruno, Pierre	Buhlman, David	Carlson, Donald
Carter, Mark	Cernota, Albert	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clemons, Jane	Cote, David	Coughlin, Pamela
Craig, James	Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley
Drisko, Richard	Elliott, Larry	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Gargas, Carolyn	Gibson, John	Gonzalez, Carlos
Gorman, Mary	Goyette, Peter Jr	Graham, John	Greenberg, Gary
Hagan, Barbara	Hall, Charles	Hallyburton, Margaret	Harrington, Paul
Hawkins, Ken	Haytayan, Harry Jr	Holden, Randolph	Hopper, Gary
Infantine, William	Irwin, Anne-Marie	Johnson, Lionel	Katsiantonis, Thomas
Kurk, Neal	L'Heureux, Robert	LaFlamme, Paul	Lasky, Bette
Lawrence, James	Lessard, Rudy	Malloy, Chris	McDonough-Wallace, Alice
McElroy, Henry Jr	McHugh, Claire	Mercer, Robert	Messier, Irene
Michon, Stephen	Mooney, Maureen	Moran, Edward	Mosher, William
O'Brien, Lori	Ober, Russell III	Pappas, Marc	Pepino, Leo
Pilote, Maurice	Price, Pamela	Reeves, Sandra	Rowe, Robert
Scanlon, Michael	Schulze, Joan	Shaw, Barbara	Slocum, Lee
Souza, Kathleen	Spieß, Paul	Stepanek, Stephen	Sullivan, Francis
Vaillancourt, Steve	Wheeler, James	Wheeler, Robert	

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Currier, David	Dunne, Christopher
Field, William	Foley, Albert	Fraser, Leo Jr	Hager, Elizabeth
Jacobson, Alf	Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen
Langer, Ray	Leber, William	Lockwood, Priscilla	MacKay, James
Marple, Richard	Maxfield, Roy	McCormick, Tom	Nutter, Edward
Oliver, James	Osborne, Jessie	Soltani, Tony	

**ROCKINGHAM**

Abbott, Dennis	Belanger, Ronald	Bishop, Franklin	Bridle, Russell
Cady, Harriet	Camm, Kevin	Carson, Sharon	Clark, Vivian
Cooney, Richard	DiFruscia, Anthony	Dodge, Robert	Dowd, John
Duffy, James	Fesh, Bob	Flanders, John Sr	Francoeur, Sheila
Gilbert, Jeffrey	Gilbert, Karl	Gillick, Thomas	Gleason, John
Gould, Kenneth	Griffin, Mary	Hamel, Albert	Headd, James
Holland, James Jr	Hughes, Daniel	Ingram, Russell	Introne, Robert
Johnson, Robert	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kelley, Jane	Kobel, Rudolph	Langley, Jane	Langone, John
Letourneau, Robert	Major, Norman	Manning, John	McEachern, Paul
McKinney, Betsy	McMahon, Charles	Morris, Richard	O'Neil, Michael
Packard, Sherman	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Robertson, Carl	Roessner, Kurt	Scamman, Stella
Splaine, James	Stone, Joseph	Tufts, J Arthur	Varrell, Thomas
Waterhouse, Kevin	Weare, E Albert	Welch, David	Wiley, Robert
Zolla, William			

**STRAFFORD**

Bemis, Alan	Berube, Roger	Bickford, David	Brown, Julie
Cataldo, Sam	Easson, Timothy	Harrington, Michael	Heon, Richard

Hofemann, Roland  
Newton, Clifford  
Twombly, James

Hollinger, Jeffrey  
Pelletier, Arthur

Knowles, William  
Rous, Emma

Musler, George  
Taylor, Kathleen

### **SULLIVAN**

Allison, David  
Jones, Constance

Donovan, Thomas  
Leone, Richard

Ferland, Brenda  
Rodeschin, Beverly

Flint, Gordon Sr

### **NAYS 89**

### **BELKNAP**

Ahern, Omer Jr

Boyce, Laurie

### **CARROLL**

None

### **CHESHIRE**

Dunn, James  
Meador, David  
Robertson, Timothy

Eaton, Daniel  
Mitchell, McKim  
Weed, Charles

Espiets, Peter  
Parkhurst, Henry

Manning, Joseph  
Richardson, Barbara

### **COOS**

Mears, Edgar

Poulin, Richard

### **GRAFTON**

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon

Benn, Bernard  
Diamond, Estelle  
Scovner, Nancy

Bleyler, Ruth  
Gilman, G Michael  
Sokol, Hilda

Cooney, Mary  
Hammond, Lee

### **HILLSBOROUGH**

Buckley, Raymond  
Haley, Robert  
Leach, Edward  
Sullivan, Peter

Cote, Peter  
Hinkle, Peyton  
Luebker, Bernard  
Sweeney, Cynthia

Dokmo, Cynthia  
Jasper, Shawn  
Movsesian, Lori  
Tate, Joan

Ford, Nancy  
Kopka, Angeline  
Pappas, Christopher

### **MERRIMACK**

Bouchard, Candace  
DeJoie, John  
Hamm, Christine  
Reed, Dennis  
Wallner, Mary Jane

Brueggemann, Donald  
DeStefano, Stephen  
Owen, Derek  
Rodd, Beth

Clarke, Claire  
French, Barbara  
Perkins, Randy  
Rush, Deanna

Davis, Frank  
Gile, Mary  
Potter, Frances  
Seldin, Gloria

### **ROCKINGHAM**

Allen, Mary  
Coes, Betsy  
Shultis, Elizabeth

Bicknell, Elbert  
McCann, Richard  
Smith, Donald

Blanchard, MaryAnn  
Norelli, Terie  
Weldy, Norman Jr

Casey, Kimberley  
Pantelakos, Laura  
Weyler, Kenneth

### **STRAFFORD**

Albert, Russell  
Johnson, Nancy  
Rollo, Deanna  
Snyder, Clair

Creteau, Irene  
Kaen, Naida  
Schmidt, Peter  
Spang, Judith

Dunlap, Patricia  
Keans, Sandra  
Scott, David  
Wall, Janet

Grassie, Anne  
Miller, Joseph  
Smith, Marjorie  
Woods, Phyllis

### **SULLIVAN**

Burling, Peter  
and the committee report was adopted.  
Ordered to third reading.

Cloutier, John

Franklin, Peter

Phinizy, James

### **SPECIAL ORDER**

Rep. Kurk moved that *SB 302-FN-L*, making technical corrections to the education funding formula, be made a Special Order for Thursday, May 6, 2004 at the end of the Regular Calendar.  
Rep. Whalley spoke in favor.  
Adopted.

**REGULAR CALENDAR (CONT'D.)****SB 333-FN, establishing a unique pupil identification system. OUGHT TO PASS WITH AMENDMENT**

Rep. Robert K. Dodge for Finance: The purpose of this bill is to establish a unique pupil identification (UPI) number for each public school pupil. Although the prime impetus for UPI is the reporting required by the federal No Child Left Behind Act (NCLB), there are other useful reasons for this number: 1) better accounting for student transfers between schools; 2) help for administrators to perform gains-based analysis; 3) more accurate tracking of dropout information; 4) aggregating data at the department level by keeping inputs anonymous, which also saves school districts time and labor; 5) and lastly, delivering more accurate and timely data to the people of New Hampshire. After the bill came to Finance, changes were made at the instance of the Education Committee to protect pupils' privacy interests with respect to the UPI and personally identifiable data. The amendment also makes it clear that only federal funds will be used to pay for the program (\$400,000 in FY 05 and \$100,000 each year thereafter) and that any contracts required will go through the approval process of Governor and Council and Fiscal Committee. Vote 15-7.

**Amendment (1437h)**

Amend the bill by replacing all after the enacting clause with the following:

I Purpose Statement. In order to improve pupil achievement, the collection of pupil data is required to:

- I. Account for pupil transfers between schools.
- II. Respond to the needs of superintendents and administrators to perform gains-based analysis of pupil progress.
- III. Help minimize the dropout risk for children.
- IV. Improve the ability to make sound policy decisions for the purpose of pupil achievement and improvement.
- V. Improve the accuracy of existing aggregate data requests.
- VI. Provide reliable data to the citizens of New Hampshire.
- VII. Reduce the burden on school districts in aggregating collected data.

2 Adequate Public Education; Delivery of an Adequate Education. RSA 193-E:3, IV is repealed and reenacted to read as follows:

IV. Data reported in paragraph I shall be disaggregated as required by federal law and shall include numbers and percentages of pupils with disabilities, limited English proficient pupils, pupils in advanced placement programs, economically disadvantaged pupils, and pupils of major racial and multi-racial groups.

3 New Subdivision; Adequate Public Education; Unique Pupil Identification. Amend RSA 193-E by inserting after section 3 the following new subdivision:

**Unique Pupil Identification**

193-E:4 Definitions. In this subdivision:

I. "Data warehouse" means the electronic system that maintains the information about each public school pupil as set forth in RSA 193-E:3, I. The data warehouse shall not contain the name, address, telephone number, e-mail address, social security number, or any other personally identifiable information about any person.

II. "District of origin" means the New Hampshire school district in which the pupil first enrolled in public school.

III. "Random number generator" means the electronic system that creates unique pupil identification numbers and assigns a unique pupil identification number to a pupil when a school district enters a pupil's name, date of birth, and gender. The system shall maintain that information and the name of the school district, as the district of origin, and no other information. This system shall not retain the unique pupil identification number.

IV. "Unique pupil identifier" means a randomly generated number assigned to a public school pupil in order to gather pupil level data.

V. "Unique pupil identification system" means an electronic system comprised of the data warehouse and the random number generator.

193-E:5 Unique Pupil Identification.

I. The department of education shall, using federal funds only, implement and maintain a unique pupil identification system on a statewide basis that complies with the following requirements:

(a) No personally identifiable information about a pupil including but not limited to name, date of birth, gender, or social security number, shall be collected or maintained by the state in such a manner as to allow such information to be connected with the unique pupil identifier. Under no circumstances shall the department of education obtain or use a social security number as an identifier for any pupil, or use unique pupil identifiers except in connection with the data warehouse and such use shall not be accessible to the public.

(b) The random number generator shall make available to each school district a unique pupil identifier for each pupil enrolled in a New Hampshire public school. The unique pupil identifier itself shall not permit pupil identification within a sub-category including, but not limited to, school district, sex, age, grade, or county of residence.

(c) The unique pupil identifier shall be requested and maintained by the local school district. The unique pupil identifier shall remain in the pupil's file throughout his or her elementary and secondary academic career in New Hampshire.

(d) Access to the random number generator shall be limited to a superintendent or designee, and only for pupils enrolled in that school administrative unit. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

(e) The random number generator shall create and maintain a comprehensive audit trail for all users accessing the system.

(f) The data warehouse shall create and maintain an audit trail for all users accessing secure information.

(g) No person, including an individual, business, government, or governmental entity, shall require an individual to provide a unique pupil identifier as a condition of doing business, providing a service, or receiving a benefit of any kind. Any person or entity violating the provisions of this paragraph shall be liable for actual damages or \$25,000, whichever is greater, for each violation. Each denial of services or benefits shall constitute a separate offense under this paragraph.

(h) If a pupil's records become part of an administrative action outside of the pupil's school district, or a part of any judicial or quasi-judicial proceeding, the part of the record containing the pupil's unique pupil identifier shall be redacted by the school district prior to release.

(i) The information maintained in the data warehouse, except for the unique pupil identifier, shall be available to the department of education and to the public using the same database maintained by the department of education. No personally identifiable information shall be required as a condition of access or usage under this subparagraph, nor shall such access or usage be tracked. Under no circumstances shall the unique pupil identifier be made available to the department of education or to the public.

(j) Information maintained in the random number generator shall be exempt from the provisions of RSA 91-A.

(k) Authorized personnel at the department of education shall administer and maintain the unique pupil identification system.

(l) No personally identifiable information, including but not limited to name, date of birth, gender, or social security number, shall be provided to any person or entity absent a court order, and under no circumstances shall personally identifiable information be provided to any person or entity outside of New Hampshire. Any person who knowingly violates this provision is guilty of a class B felony and may be subject to involuntary termination of employment.

II. Notwithstanding RSA 193-E:3, II, the legislative oversight committee established in RSA 193-C:7 shall perform any revisions to this section through legislation filed for that purpose.

III. Any contracts or agreements necessary to implement the provisions of this section shall be approved by the governor with the consent of the executive council, and the fiscal committee established in RSA 14:30-a.

4 New Paragraph; Statewide Assessment and Improvement Education Program; Legislative Oversight Committee. Amend RSA 193-C:8 by inserting after paragraph VIII the following new paragraph:

IX. Review the unique pupil identification system established in RSA 193-E:5 and propose legislation needed as a result of the review.

5 New Paragraph; Public Records and Meetings; Exemptions. Amend RSA 91-A:5 by inserting after paragraph VI the following new paragraph:

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.



6 Effective Date. This act shall take effect August 1, 2004.

Adopted.

Report adopted and ordered to third reading.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Fran Wendelboe for the Majority of Finance: The only controversial part of this very complex bill deals with extending the state/county cost-sharing partnership on long-term care established in 1998 with SB 409. The majority amendment extends the SB 409 partnership for another 4 years while implementing the arrangement made when we passed the nursing home bed assessment last year in HB 663. The committee considered and rejected a one-year extension. The majority of the Committee strongly feels it is unfair for one entity at the budget table to have an advantage that creates an uneven playing field as part of the big picture of all state funding programs and needs. Tying the state's hands to only a one year extension of the state/county partnership would create that unlevel playing field, giving counties a preferential, not equal, place at the budget table. Additionally, SB 376: 1) allows non-profit hospitals the option to participate in a cost-saving state government multi-purchase pool: 2) gives Androscoggin Hospital flexibility in their hospital license to capture over \$2 million in additional federal revenue: 3) makes federally mandated changes to the method that the state uses for the hospital tax from gross to net patient revenue which will reduce state revenues by \$44 million per year in FY 06 and beyond: and 4) makes changes to the nursing home bed assessment to meet requirements for federal approval.. Vote 15-8.

Rep. Mary Jane Wallner for the Minority of Finance: The minority recognizes that this bill has many important components but feels a crucial element is missing. The counties' statutory obligation to contribute 50% of the non-federal share of Medicaid services should sunset at the end of this biennium and be renegotiated in the next biennium budget. The bill before us has the county obligation locked in until June 30, 2008. The counties are an equal partner with the state in the delivery of services to our elderly citizens. When budget negotiations for the next biennium begin, all parties should come to the table with a level playing field. The minority amendment as printed in the calendar will extend the county delegation for 1 year, not 4 years.

**Majority Amendment (1435h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Administrative Services; Additional Purchasing Authority; Pharmaceuticals. Amend RSA 21-I:17 by inserting after paragraph II the following new paragraph:

III. The state through the director of plant and property management or any other appropriate purchasing authority may purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital, whenever the governing body thereof so desires and the director or other authority deems that he or she can make such purchases advantageously. Any savings realized from the state's purchase of pharmaceuticals and allied products and services for a receiving facility or nonprofit hospital shall be allocated to the receiving facility or nonprofit hospital. No liability shall accrue to the state or the state purchasing authority for any loss, damage, death, or injury resulting from the use of any pharmaceuticals or allied products or services purchased by the state for any nonprofit hospital.

2 Medicaid Enhancement Tax; Imposition of Tax. Amend RSA 84-A:2 to read as follows:

84-A:2 Imposition of Tax. A tax is imposed at a rate of 6 percent upon the [gross] *net* patient services revenue of every hospital for the hospital's fiscal year ending during the first full calendar year preceding the taxable period.

3 New Paragraph; Medicaid Enhancement Tax; "Gross" changed to "Net." Amend RSA 84-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Net patient services revenue" means the gross charges of the hospital less any deducted amounts for bad debts, charity care, and payor discounts.

4 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:1, IV to read as follows:

IV. "Medicaid enhancement tax" means the tax imposed upon ~~[gross]~~ *net* patient services revenue pursuant to this chapter.

5 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:4 to read as follows:

84-A:4 Returns. Every hospital shall on or before the tenth day of the month following the expiration of the taxable period make a return to the commissioner. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the data which it must contain for the correct computation of ~~[gross]~~ *net* patient services revenue and the tax assessed upon such amount. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury. If such return shows an overpayment of the tax due, the commissioner shall refund or credit the overpayment to the hospital in accordance with RSA 21-J:28-a.

6 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:6 to read as follows:

84-A:6 Additional Returns. When the commissioner has reason to believe that a hospital has failed to file a return or to include any part of its ~~[gross]~~ *net* patient services revenue in a filed return, the commissioner may require the hospital to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the hospital of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

7 Payment of Funds for Persons Eligible to Receive Nursing Home Care. Amend RSA 167:18-b, IV to read as follows:

IV. The total billings by all counties made pursuant to this section for persons who have been determined eligible to receive nursing facility services shall not exceed 50 percent of the non-federal share of the combined long-term care medicaid spending for which the counties are obligated and in no instance shall the billings for the 12-month period of the state fiscal year, dated between July 1, 2004 and June 30, ~~[2005]~~ **2008** exceed:

- (a) State fiscal year 2004-\$60,000,000.
- (b) State fiscal year 2005-\$64,000,000.
- (c) *State fiscal year 2006-\$67,000,000.*
- (d) *State fiscal year 2007-\$70,000,000.*
- (e) *State fiscal year 2008-\$73,000,000.*

8 New Paragraph; County Payments. Amend RSA 167:18-b by inserting after paragraph VI the following new paragraph:

VII. Notwithstanding any provision of law to the contrary, each county government shall reimburse the state for 50 percent of the total cost of proportionate share payments made to the county pursuant to RSA 167:18-h.

9 County Nursing Homes; Proportionate Share Payments by State. RSA 167:18-h is repealed and reenacted to read as follows:

167:18-h County Nursing Homes; Proportionate Share Payments by State. Proportionate share payments to county nursing homes shall be made each state fiscal year in an amount equal to the maximum permissible by federal regulations. All payments shall be apportioned to each facility in a percentage equal to that facility's proportion of total county nursing home medicaid utilization. If the federal government makes adjustments to any proportionate share payments that have been made by the state, the amounts due under this section shall be amended accordingly and adjusted payments shall be made to or from the state as necessary.

10 Repeal. RSA 167:18-b, V, relative to recalculations of total payments by counties, is repealed.

11 Effective Date of Repeal Changed; Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend 1998, 388:17, II as amended by 2003, 223:8 to read as follows:

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, ~~[2004]~~ **2008**.

12 Repeal. RSA 84-A:1, II, relative to gross patient services revenue.

13 Nursing Facility Quality Assessment; Definitions. Amend RSA 84-C:1, IV to read as follows:

IV. "*Net patient services revenues*" means revenues earned on an accrual basis of accounting, net of deducted amounts for bad debts, charity care, and payer discounts, by a nursing facility for services provided to residents as provided for in 42 CFR 433.68(d)(1)(iii).

14 Nursing Facility Quality Assessment; Imposition of Fee. Amend RSA 84-C:2 to read as follows:

84-C:2 Imposition of Fee. An assessment of ~~[up to]~~ 6 percent of ~~[aggregated]~~ net *patient services* revenues is hereby imposed on all nursing facilities on the basis of ~~[non-medicare]~~ patient days *in each nursing facility*. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

15 Nursing Facility Quality Assessment; Returns. Amend RSA 84-C:4 to read as follows:

84-C:4 Returns. Every nursing facility shall on or before the tenth day of the month following the expiration of the assessment period make a return to the commissioner and to the commissioner of the department of health and human services. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the date which it must contain for the correct computation of facility net *patient services* revenues and the assessment upon such amount. All returns shall be signed by the authorized representative of the nursing facility, subject to the pains and penalties of perjury. If such return shows an overpayment of the assessment due, the commissioner shall refund or credit the overpayment to the nursing facility.

16 Nursing Facility Quality Assessment; Additional Returns. Amend RSA 84-C:6 to read as follows:

84-C:6 Additional Returns. When the commissioner has reason to believe that a nursing facility has failed to file a return or to include any part of its net *patient services* revenue in a filed return, the commissioner may require the nursing facility to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the nursing facility of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

17 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(a) to read as follows:

(a) Aggregate medicaid reimbursement for nursing facilities through PAU 05-01-10-04-01 class 90 is reduced below the level in effect as of February 1, 2003, *increased by the funds expended from the nursing facility trust fund established under RSA 151-E:14 and matched by corresponding federal funds*.

18 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(d) to read as follows:

(d) Any proceeds from the nursing facility quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the ~~[medicaid quality incentive program under RSA 151-E:13]~~ *nursing facility trust fund under RSA 151-E:14*.

19 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, III to read as follows:

III. The nursing facility quality assessment under this chapter shall not be assessed or collected ~~[and the medicaid quality incentive program authorized by RSA 151-E:13 shall not be paid]~~ *and payments from the nursing facility trust fund authorized by RSA 151-E:14 shall not be made* until after the commissioner of health and human services certifies to the commissioner that the department of health and human services has obtained *all necessary* federal ~~[approval of the assessment in RSA 84-C:2, the state plan uniformity waiver in RSA 84-C:11, I(c), the medicaid quality incentive program in RSA 151-E:13, and payments have commenced under the medicaid quality incentive program. Such payments under the medicaid quality incentive program shall commence 45 days after such certification and shall be effective for the period beginning May 1, 2003 or the effective date of the federal authorization for the nursing facility quality assessment, the uniformity waiver, and the medicaid quality incentive program, whichever is later]~~ *approvals. Payments under RSA 151-E:15 shall be effective for the period beginning May 1, 2003.*

20 Expenditure of Funds From Nursing Facility Trust Fund. RSA 151-E:15 is repealed and reenacted to read as follows:

151-E:15 Expenditure of Funds From Nursing Facility Trust Fund. Notwithstanding any other provision of law, moneys in the nursing facility trust fund shall be expended in the following manner:

I. All moneys in the fund shall be paid out no less frequently than on a quarterly basis and shall be disbursed as follows:

(a) The moneys in the fund shall be used to eliminate or reduce to the maximum extent possible the difference between the allowable medicaid costs, derived from the nursing facility medicaid acuity rate setting system, which nursing facilities incur in providing care to medicaid residents, and the amount which the state has budgeted in order to fund that care.

(b) If after the disbursement required in subparagraph (a) there are still any moneys remaining in the fund, the nursing facility rate setting system shall be adjusted to insure that all moneys in the fund are expended for nursing facility care.

II. The state treasurer shall transfer from the nursing facility trust fund to the general fund on the first business day of each quarter the amount necessary to fund the payments under paragraph I.

III. The state treasurer shall transfer, and the commissioner of health and human services shall fund the full amount of the nursing facility trust fund in each quarter.

IV. Notwithstanding the provisions of RSA 167:18-b, I, no county shall be required to make any contribution to the distribution under this section.

21 Initial Assessment Period; Nursing Facility Quality Assessment. Amend 2003, 223:13 to read as follows:

223:13 Initial Assessment Period; Nursing Facility Quality Assessment. Notwithstanding RSA 84-C:1, II the initial assessment period shall be the period beginning ~~[with the effective date of federal authorization and ending on June 30, 2003]~~ *May 1, 2003 and ending on April 30, 2004.*

22 Applicability. Nothing in this act shall be construed to create a new right or entitlement on behalf of any person to receive a service provided by the state.

23 Repeal. The following are repealed:

I. RSA 84-C:11, I(e), relative to a certain contingency regarding the nursing facility quality assessment law.

II. RSA 151-E:13, relative to the medicaid quality incentive program.

24 Long-Term Care Reimbursement Commission.

I. There is established a commission to study long-term care reimbursement.

II. The members of the commission shall be as follows:

(a) Three members of the house, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

(c) Three members appointed by the New Hampshire Association of Counties.

(d) The commissioner of health and human services, or designee.

(e) Two members representing the interests of private nursing homes, appointed by the New Hampshire Health Care Association.

(f) The commissioner of the department of revenue administration, or designee.

(g) Two members representing the interests of mid-level care, one appointed by the Northern New England Association of Homes and Services for the Aging and one appointed by the New Hampshire Association of Residential Care Homes.

(h) Two members representing the interests of home health care, appointed by the Home Care Association of New Hampshire.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall study the funding of long-term care medicaid costs and funding sources in New Hampshire as they affect county and state government. The study shall include, but not be limited to the following:

(a) The appropriate role of property taxes in funding the non-federal share of medicaid.

(b) Possible establishment of an equitable statewide medicaid property tax rate.

(c) Alternative funding sources for the non-federal share of medicaid.

(d) The role of tobacco master settlement agreement contribution to funding of the county portion of long-term care.

(e) Demographic trends in long-term care costs.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2004.

25 Purpose. The purpose of section 26 of this act is to facilitate legislative involvement in any efforts at so-called "Medicaid Modernization."

26 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. *The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that results at any time in the consolidation of federal grants or allotments, caps on the federal portion of medicaid spending, reductions in the federal share of medicaid spending, or increases in the state share of medicaid spending, without the prior approval of the fiscal committee of the general court.*

27 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

(h) *Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by an acute care hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the most recent 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit.*

28 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

29 Effective Date.

I. Sections 2-6, 8, 9, and 12 of this act shall take effect July 1, 2005.

II. Sections 1, 7, 10, and 11 of this act shall take effect July 1, 2004.

III. Section 27 shall take effect 60 days after its passage.

IV. The remainder of this act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill:

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

III. Amends the statutes relative to county nursing homes and proportionate share payments.

IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.

V. Repeals the medicaid quality incentive program.

VI. Establishes a commission to study long-term care reimbursement.

VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.

VIII. Adds an exemption from the certificate of need law for certain hospitals.

Majority amendment adopted.

Rep. King offered the minority amendment (1463h).

### Minority Amendment (1463h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

Amend the bill by replacing all after the enacting clause with the following:

I New Paragraph; Administrative Services; Additional Purchasing Authority; Pharmaceuticals. Amend RSA 21-I:17 by inserting after paragraph II the following new paragraph:

III. The state through the director of plant and property management or any other appropriate purchasing authority may purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital, whenever the governing body thereof so desires and the director or other authority deems that he or she can make such purchases advantageously. Any savings realized from the state's purchase of pharmaceuticals and allied products and services for a receiving facility or nonprofit hospital shall be allocated to the receiving facility or nonprofit hospital. No liability shall accrue to the state or the state purchasing authority for any loss, damage, death, or injury resulting from the use of any pharmaceuticals or allied products or services purchased by the state for any nonprofit hospital.

2 Medicaid Enhancement Tax; Imposition of Tax. Amend RSA 84-A:2 to read as follows:

84-A:2 Imposition of Tax. A tax is imposed at a rate of 6 percent upon the ~~[gross]~~ *net* patient services revenue of every hospital for the hospital's fiscal year ending during the first full calendar year preceding the taxable period.

3 New Paragraph; Medicaid Enhancement Tax; "Gross" changed to "Net." Amend RSA 84-A:1 by inserting after paragraph IV the following new paragraph:

IV-a. "Net patient services revenue" means the gross charges of the hospital less any deducted amounts for bad debts, charity care, and payor discounts.

4 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:1, IV to read as follows:

IV. "Medicaid enhancement tax" means the tax imposed upon ~~[gross]~~ *net* patient services revenue pursuant to this chapter.

5 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:4 to read as follows:

84-A:4 Returns. Every hospital shall on or before the tenth day of the month following the expiration of the taxable period make a return to the commissioner. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the data which it must contain for the correct computation of ~~[gross]~~ *net* patient services revenue and the tax assessed upon such amount. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury. If such return shows an overpayment of the tax due, the commissioner shall refund or credit the overpayment to the hospital in accordance with RSA 21-J:28-a.

6 Medicaid Enhancement Tax; "Gross" Changed to "Net." Amend RSA 84-A:6 to read as follows:

84-A:6 Additional Returns. When the commissioner has reason to believe that a hospital has failed to file a return or to include any part of its ~~[gross]~~ *net* patient services revenue in a filed return, the commissioner may require the hospital to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the hospital of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

7 County Nursing Homes; Proportionate Share Payments. RSA 167:18-h is repealed and reenacted to read as follows:

167:18-h County Nursing Homes; Proportionate Share Payments.

I. Proportionate share payments to county nursing homes shall be made each state fiscal year in an amount equal to the maximum permissible by federal regulations. All payments shall be apportioned to each facility in a percentage equal to that facility's proportion of total county nursing home medicaid utilization. If the federal government makes adjustments to any proportionate share payments that have been made by the state, the amounts due under this section shall be amended accordingly and adjusted payments shall be made to or from the state as necessary.

II. Notwithstanding any provision of law to the contrary, each county government shall reimburse the state for 50 percent of the total cost of proportionate share payments made to the county pursuant to paragraph I.

8 Repeal. RSA 167:18-b, V, relative to recalculations of total payments by counties, is repealed.

9 Effective Date of Repeal Changed; Reimbursement of Funds for Persons Eligible to Receive Nursing Home Services; Limitation on County Payments. Amend 1998, 388:17, II as amended by 2003, 223:8 to read as follows:

II. Paragraphs I and II of section 16 of this act shall take effect on July 1, ~~[2004]~~ 2005.

10 Repeal. RSA 84-A:1, II, relative to gross patient services revenue.

11 Nursing Facility Quality Assessment; Definitions. Amend RSA 84-C:1, IV to read as follows:

IV. "Net *patient services* revenues" means revenues earned on an accrual basis of accounting, net of deducted amounts for bad debts, charity care, and payer discounts, by a nursing facility for services provided to residents as provided for in 42 CFR 433.68(d)(1)(iii).

12 Nursing Facility Quality Assessment; Imposition of Fee. Amend RSA 84-C:2 to read as follows:

84-C:2 Imposition of Fee. An assessment of ~~[up to]~~ 6 percent of ~~[aggregated]~~ net *patient services* revenues is hereby imposed on all nursing facilities on the basis of ~~[non-medicare]~~ patient days *in each nursing facility*. The fee shall be implemented in accordance with the provisions of 42 C.F.R. part 433.

13 Nursing Facility Quality Assessment; Returns. Amend RSA 84-C:4 to read as follows:

84-C:4 Returns. Every nursing facility shall on or before the tenth day of the month following the expiration of the assessment period make a return to the commissioner and to the commissioner of the department of health and human services. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the form of such return and the date which it must contain for the correct computation of facility net *patient services* revenues and the assessment upon such amount. All returns shall be signed by the authorized representative of the nursing facility, subject to the pains and penalties of perjury. If such return shows an overpayment of the assessment due, the commissioner shall refund or credit the overpayment to the nursing facility.

14 Nursing Facility Quality Assessment; Additional Returns. Amend RSA 84-C:6 to read as follows:

84-C:6 Additional Returns. When the commissioner has reason to believe that a nursing facility has failed to file a return or to include any part of its net *patient services* revenue in a filed return, the commissioner may require the nursing facility to file a return or a supplementary return showing such additional information as the commissioner prescribes. Upon the receipt of the supplementary return, or if none is received within the time set by the commissioner, the commissioner may find and assess the amount due upon the information that is available. The making of such additional return does not relieve the nursing facility of any penalty for failure to make a correct original return or relieve it from liability for interest imposed under RSA 21-J:28 or any other additional charges imposed by the commissioner. This section shall not be construed to modify the statute of limitations provided in RSA 21-J:29.

15 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(a) to read as follows:

(a) Aggregate medicaid reimbursement for nursing facilities through PAU 05-01-10-04-01 class 90 is reduced below the level in effect as of February 1, 2003, *increased by the funds expended from the nursing facility trust fund established under RSA 151-E:14 and matched by corresponding federal funds.*

16 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, I(d) to read as follows:

(d) Any proceeds from the nursing facility quality assessment established in this chapter are expended by the state or any state agency for any purpose other than funding nursing facility expenditures through the ~~[medicaid quality incentive program under RSA 151-E:13]~~ *nursing facility trust fund under RSA 151-E:14.*

17 Nursing Facility Quality Assessment; Contingencies. Amend RSA 84-C:11, III to read as follows:

III. The nursing facility quality assessment under this chapter shall not be assessed or collected ~~[and the medicaid quality incentive program authorized by RSA 151-E:13 shall not be paid]~~ *and payments from the nursing facility trust fund authorized by RSA 151-E:14 shall not be made* until after the commissioner of health and human services certifies to the commissioner that the department of health and human services has obtained *all necessary* federal ~~[approval of the assessment in RSA 84-C:2, the state plan uniformity waiver in RSA 84-C:11, I(c), the medicaid quality incentive program in RSA 151-E:13, and payments have commenced under the medicaid quality incentive program. Such payments under the medicaid quality incentive program shall commence 45 days after such certification and shall be effective for the period beginning May 1, 2003 or the effective date of the federal authorization for the nursing facility quality assessment, the uniformity waiver, and the medicaid quality incentive program, whichever is later]~~ *approvals. Payments under RSA 151-E:15 shall be effective for the period beginning May 1, 2003.*

18 Expenditure of Funds From Nursing Facility Trust Fund. RSA 151-E:15 is repealed and reenacted to read as follows:

151-E:15 Expenditure of Funds From Nursing Facility Trust Fund. Notwithstanding any other provision of law, moneys in the nursing facility trust fund shall be expended in the following manner:

I. All moneys in the fund shall be paid out no less frequently than on a quarterly basis and shall be disbursed as follows:

(a) The moneys in the fund shall be used to eliminate or reduce to the maximum extent possible the difference between the allowable medicaid costs, derived from the nursing facility medicaid acuity rate setting system, which nursing facilities incur in providing care to medicaid residents, and the amount which the state has budgeted in order to fund that care.

(b) If after the disbursement required in subparagraph (a) there are still any moneys remaining in the fund, the nursing facility rate setting system shall be adjusted to insure that all moneys in the fund are expended for nursing facility care.

II. The state treasurer shall transfer from the nursing facility trust fund to the general fund on the first business day of each quarter the amount necessary to fund the payments under paragraph I.

III. The state treasurer shall transfer, and the commissioner of health and human services shall fund the full amount of the nursing facility trust fund in each quarter.

IV. Notwithstanding the provisions of RSA 167:18-b, I, no county shall be required to make any contribution to the distribution under this section.

19 Initial Assessment Period; Nursing Facility Quality Assessment. Amend 2003, 223:13 to read as follows:

223:13 Initial Assessment Period; Nursing Facility Quality Assessment. Notwithstanding RSA 84-C:1, II the initial assessment period shall be the period beginning ~~[with the effective date of federal authorization and ending on June 30, 2003]~~ *May 1, 2003 and ending on April 30, 2004.*

20 Applicability. Nothing in this act shall be construed to create a new right or entitlement on behalf of any person to receive a service provided by the state.

21 Repeal. The following are repealed:

I. RSA 84-C:11, I(e), relative to a certain contingency regarding the nursing facility quality assessment law.

II. RSA 151-E:13, relative to the medicaid quality incentive program.

22 Long-Term Care Reimbursement Commission.

I. There is established a commission to study long-term care reimbursement.

II. The members of the commission shall be as follows:

(a) Three members of the house, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

(c) Three members appointed by the New Hampshire Association of Counties.

(d) The commissioner of health and human services, or designee.

(e) Two members representing the interests of private nursing homes, appointed by the New Hampshire Health Care Association.

(f) The commissioner of the department of revenue administration, or designee.

(g) Two members representing the interests of mid-level care, one appointed by the Northern New England Association of Homes and Services for the Aging and one appointed by the New Hampshire Association of Residential Care Homes.

(h) Two members representing the interests of home health care, appointed by the Home Care Association of New Hampshire.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

IV. The commission shall study the funding of long-term care medicaid costs and funding sources in New Hampshire as they affect county and state government. The study shall include, but not be limited to the following:

(a) The appropriate role of property taxes in funding the non-federal share of medicaid.

(b) Possible establishment of an equitable statewide medicaid property tax rate.

(c) Alternative funding sources for the non-federal share of medicaid.

(d) The role of tobacco master settlement agreement contribution to funding of the county portion of long-term care.



(e) Demographic trends in long-term care costs.

V. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

VI. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2004.

23 Purpose. The purpose of section 24 of this act is to facilitate legislative involvement in any efforts at so-called "Medicaid Modernization."

24 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. *The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that results at any time in the consolidation of federal grants or allotments, caps on the federal portion of medicaid spending, reductions in the federal share of medicaid spending, or increases in the state share of medicaid spending, without the prior approval of the fiscal committee of the general court.*

25 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

*(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by an acute care hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the most recent 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit.*

26 Severability. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

27 Effective Date.

I. Sections 2-7 and 10 of this act shall take effect July 1, 2005.

II. Sections 1, 8, and 9 of this act shall take effect July 1, 2004.

III. Section 25 shall take effect 60 days after its passage.

IV. The remainder of this act shall take effect upon its passage.

## AMENDED ANALYSIS

This bill:

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

III. Amends the statutes relative to county nursing homes and proportionate share payments.

IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.

V. Repeals the medicaid quality incentive program.

VI. Establishes a commission to study long-term care reimbursement.

VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.

VIII. Adds an exemption from the certificate of need law for certain hospitals.

Rep. King spoke in favor and yielded to questions.

Rep. Wendelboe spoke against and yielded to questions.  
 Rep. Wallner spoke in favor and yielded to questions.  
 Rep. Wallner requested a roll call; sufficiently seconded.  
 The question being adoption of the minority amendment (1463h).

**YEAS 183 NAYS 157****YEAS 183  
BELKNAP**

Pilliod, James                      Rice, Thomas

**CARROLL**

Dickinson, Howard              Kenney, Bettie                      Merrow, Harry                      Olimpio, J Lisbeth  
 Philbrick, Donald

**CHESHIRE**

Allen, Peter                      Dunn, James                      Eaton, Daniel                      Espieffs, Peter  
 Fish, Douglas                  Manning, Joseph                  Meader, David                      Mitchell, McKim  
 Parkhurst, Henry              Pratt, John                      Richardson, Barbara              Robertson, Timothy  
 Tilton, Anna                  Webber, Amy

**COOS**

Guay, Lawrence                  King, Frederick                      Mears, Edgar                      Poulin, Richard  
 Pratt, Leighton                  Theberge, Robert                  Woodward, David

**GRAFTON**

Alger, John                      Almy, Susan                      Barker, Robert                      Benn, Bernard  
 Bleyler, Ruth                  Cooney, Mary                      Densmore, Edward                  Diamond, Estelle  
 Ham, Bonnie                  Hammond, Lee                      Ingbreton, Paul                      Nordgren, Sharon  
 Scovner, Nancy                  Sokol, Hilda                      Solomon, Peter                      Williams, Burton

**HILLSBOROUGH**

Baroody, Benjamin              Barry, J Gail                      Buckley, Raymond                  Buhlman, David  
 Chabot, Robert                  Clayton, William                  Clemons, Jane                      Cote, David  
 Cote, Peter                      Craig, James                      Dokmo, Cynthia                      Gargas, Carolyn  
 Gibson, John                  Gorman, Mary                      Hagan, Barbara                      Haley, Robert  
 Hinkle, Peyton                  Infantine, William                  Irwin, Anne-Marie                  Johnson, Lionel  
 Katsiantonis, Thomas              Kopka, Angeline                  Lasky, Bette                      Leach, Edward  
 Malloy, Chris                  Martin, Mary Ellen                  McDonough-Wallace, Alice              McElroy, Henry Jr  
 Messier, Irene                  Michon, Stephen                  Mosher, William                      Movsesian, Lori  
 Pappas, Christopher              Pilotte, Maurice                  Schulze, Joan                      Shaw, Barbara  
 Spiess, Paul                      Sullivan, Francis                  Sullivan, Peter                      Sweeney, Cynthia  
 Vaillancourt, Steve

**MERRIMACK**

Blanchard, Elizabeth              Bouchard, Candace                  Brueggemann, Donald                  Clarke, Claire  
 Currier, David                  Davis, Frank                      DeJoie, John                      DeStefano, Stephen  
 Foley, Albert                  Fraser, Leo Jr                      French, Barbara                      Gile, Mary  
 Hager, Elizabeth                  Hamm, Christine                  Jacobson, Alf                      Kenison, Leon  
 Kennedy, Richard                  Leber, William                  Lockwood, Priscilla                  Marple, Richard  
 Maxfield, Roy                  McCormick, Tom                  Nutter, Edward                      Osborne, Jessie  
 Owen, Derek                  Perkins, Randy                  Potter, Frances                      Reed, Dennis  
 Rodd, Beth                      Rush, Deanna                      Seldin, Gloria                      Soltani, Tony  
 Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis                  Allen, Mary                      Blanchard, MaryAnn                  Camm, Kevin  
 Casey, Kimberley                  Clark, Vivian                      Coes, Betsy                      Cooney, Richard  
 DiFruscia, Anthony                  Duffy, James                      Gilbert, Karl                      Gould, Kenneth

Headd, James  
Langone, John  
McMahon, Charles  
Robertson, Carl  
Splaine, James

Johnson, Robert  
Manning, John  
Norelli, Terie  
Roessner, Kurt  
Varrell, Thomas

Kelley, Jane  
McEachern, Paul  
Pantelakos, Laura  
Shultis, Elizabeth  
Weyler, Kenneth

Langley, Jane  
McKinney, Betsy  
Putnam, Ed II  
Smith, Donald

### STRAFFORD

Berube, Roger  
Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Snyder, Clair

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Spang, Judith

Brown, Julie  
Grassie, Anne  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Cataldo, Sam  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

### NAYS 157

### BELKNAP

Ahern, Omer Jr  
Clark, Charles  
Nedeau, Stephen  
Whalley, Michael

Allen, Janet  
Fitzgerald, James  
Russell, David

Bartlett, Gordon  
Flanders, Donald  
Thomas, John

Boyce, Laurie  
Holbrook, Robert  
Wendelboe, Fran

### CARROLL

Babson, David Jr  
Mock, Henry

Brown, Carolyn  
Patten, Betsey

Derby, Mark  
Stevens, Stanley

McConkey, Mark

### CHESHIRE

Dexter, Judson  
Smith, Edwin

Laurent, John

Liebl, George

Royce, H Charles

### COOS

Stohl, Eric

Tholl, John Jr

### GRAFTON

Dorsett, Andrew  
Giuda, Robert

Dudley, Terri  
Maybeck, Margie

Eaton, Stephanie  
Naro, Debra

Gilman, G Michael  
Sorg, Gregory

### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Bruno, Pierre  
Christensen, D L Chris  
Desmarais, Vivian  
Emerton, Larry  
Gonzalez, Carlos  
Hall, Charles  
Hawkins, Ken  
Jasper, Shawn  
Lawrence, James  
Mercer, Robert  
Ober, Russell III  
Reeves, Sandra  
Souza, Kathleen  
Wheeler, Robert

Allan, Nelson  
Beaton, William  
Carlson, Donald  
Christiansen, Lars  
Dionne, Kimberley  
Fields, Dennis  
Goyette, Peter Jr  
Hallyburton, Margaret  
Haytayan, Harry Jr  
Kurk, Neal  
Lessard, Rudy  
Mooney, Maureen  
Pappas, Marc  
Rowe, Robert  
Stepanek, Stephen

Arnold, Thomas Jr  
Bergeron, Jean-Guy  
Carter, Mark  
Coughlin, Pamela  
Drisko, Richard  
Fletcher, Richard  
Graham, John  
Hansen, Ryan  
Holden, Randolph  
L'Heureux, Robert  
Luebker, Bernard  
Moran, Edward  
Pepino, Leo  
Scanlon, Michael  
Tate, Joan

Artz, Lawrence  
Brundige, Robert  
Cernota, Albert  
Crane, Elenore Casey  
Elliott, Larry  
Ford, Nancy  
Greenberg, Gary  
Harrington, Paul  
Hopper, Gary  
LaFlamme, Paul  
McHugh, Claire  
O'Brien, Lori  
Price, Pamela  
Slocum, Lee  
Wheeler, James

**MERRIMACK**

Anderson, Eric	Dunne, Christopher	Field, William	Hess, David
L'Heureux, Stephen	Langer, Ray	MacKay, James	Oliver, James

**ROCKINGHAM**

Belanger, Ronald	Bicknell, Elbert	Bishop, Franklin	Bridle, Russell
Cady, Harriet	Carson, Sharon	Dodge, Robert	Dowd, John
Fesh, Bob	Flanders, John Sr	Francoeur, Sheila	Gilbert, Jeffrey
Gillick, Thomas	Gleason, John	Griffin, Mary	Hamel, Albert
Holland, James Jr	Hughes, Daniel	Ingram, Russell	Introne, Robert
Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph
Letourneau, Robert	Major, Norman	McCann, Richard	Morris, Richard
O'Neil, Michael	Packard, Sherman	Priestley, Anne	Quandt, Matthew
Rausch, James	Scamman, Stella	Stone, Joseph	Tufts, J Arthur
Waterhouse, Kevin	Weare, E Albert	Welch, David	Weldy, Norman Jr
Wiley, Robert	Zolla, William		

**STRAFFORD**

Albert, Russell	Bemis, Alan	Campbell, W Packy	Easson, Timothy
Harrington, Michael	Hollinger, Jeffrey	Newton, Clifford	Scott, David
Twombly, James	Woods, Phyllis		

**SULLIVAN**

Rodeschin, Beverly  
and minority amendment (1463h) was adopted.  
Ccommittee report adopted and ordered to third reading.

**SB 382-FN-L, relative to medical service rates for state prisoners. OUGHT TO PASS WITH AMENDMENT**

Rep. Larry G. Elliott for Finance: As the bill came to Finance, it extended to state inmates the pricing structure that county governments enjoy for medical service for inmates. The bill limits the state to paying no more than 110% of the cost of Medicare allowable rates for services provided. No one appeared before Division III of the House Finance Committee in opposition to this section. The committee amendment, developed with the Criminal Justice and Public Safety Committee, authorizes medical parole. The state is currently spending just under \$8 million on health care costs for inmates in the state prison system. The state is not eligible for any reimbursement from the federal government for these costs. Medical parole would allow the most medically involved inmates, who are virtually incapacitated and unable to recommit their crimes, to be released for treatment in the community, allowing the state to receive some federal reimbursement for the care of these individuals. There is nothing in this legislation which requires any nursing home to accept an inmate from the state prison system. In addition, the procedures outlined in the legislation require a parole plan to be submitted before medical parole is granted. This insures that no inmate will be released onto the streets without a place to go and clearly defined medical services for the inmate to be in place. It is important that we remember that the state prison is not set up as a hospital or a nursing home and does not have the required infrastructure to provide the care that our elderly inmates are now requiring. The administrative director of forensic and medical services stated that initially approximately 6 inmates would be affected and only one or two inmates annually thereafter. Finally to address concerns of the counties, the amendment requires the state to cover all of the non-federal Medicaid costs for medical parolees. Vote 13-8.

**Amendment (1200h)**

Amend the bill by replacing all after section 2 with the following:

3 New Section; Parole of Inmates; Medical Parole. Amend RSA 651-A by inserting after section 10 the following new section:

651-A:10-a Medical Parole.

1. Upon the recommendation of the commissioner of the department of corrections and the administrative director of forensic and medical services, after review of the information provided

by a physician licensed pursuant to RSA 329, the parole board may grant medical parole to an inmate residing in a state correctional facility, regardless of the time remaining on his or her sentence, provided all of the following conditions apply:

(a) The inmate has a terminal, debilitating, incapacitating, or incurable medical condition or syndrome, as certified by a physician licensed pursuant to RSA 329, and, if requested by the parole board, at least one additional physician licensed pursuant to RSA 329.

(b) The cost of medical care, treatment, and resources for the inmate is determined to be excessive.

(c) The parole board has determined that the inmate will not be a danger to the public, and that there is a reasonable probability that the inmate will not violate the law while on medical parole and will conduct himself or herself as a good citizen.

II. The administrative director of forensic and medical services, on behalf of an inmate, may petition the parole board for hearing to determine if the inmate is eligible for medical parole and if the inmate is eligible, shall submit the parole plan to the parole board.

III. Medical parole shall only be granted by a majority vote of the full 7 member parole board.

IV. The parole board may request, as a condition of medical parole, that such inmate submit to periodic medical examinations while on medical parole and comply with any other parole conditions imposed by the parole board. The administrative director of forensic and medical services, after review of any such medical examination shall report the findings to the parole board. If the parole board, after review of such findings, determines that the parolee no longer has a terminal, debilitating, incapacitating, or incurable medical condition or syndrome, the medical parole shall be revoked and the parolee shall be returned to the custody of the state.

V. Notwithstanding RSA 504-A:5, a medical parolee who is arrested under the authority of RSA 504-A:4 or RSA 651-A:25 shall be detained at the medical unit or infirmary of the appropriate state correctional facility closest to the location where he or she was arrested.

VI. An inmate who has been sentenced to life in prison without parole or sentenced to death shall not be eligible for medical parole under this section. Nothing in this provision or law shall be construed to create a right to medical parole for any inmate.

VII. Notwithstanding RSA 167:18-b, the state shall be responsible for all medicaid costs incurred, net of federal reimbursement, for any inmate granted medical parole under this section, until the earliest date on which parole could have been granted had the inmate not been granted medical parole.

4 New Subparagraph; Adult Parole Board; Duties. Amend RSA 651-A:4, III by inserting after subparagraph (d) the following new subparagraph:

(e) Procedures for medical parole.

5 Effective Date. This act shall take effect upon its passage.

### AMENDED ANALYSIS

This bill limits the amount a hospital or emergency room can charge the department of corrections for medical services provided to a state prisoner to 110 percent of the medicare allowable rate for such services.

The bill also allows the parole board, in conjunction with the commissioner of the department of corrections and the administrative director of forensic and medical services, to grant certain inmates medical parole.

Adopted.

Report adopted and ordered to third reading.

### SPECIAL ORDER

**SB 487, relative to lead sinkers. MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Robert J. L'Heureux for the Majority of Fish and Game: This bill had a lot of support during the public hearing. The legislation prohibits the use of lead sinkers or lead jigs in any fresh body of water which includes lakes, ponds, brooks, rivers, and streams. The bill also prohibits the sale of lead sinkers or lead jigs within the state of New Hampshire. There are plenty of alternative sinker types, e.g. steel and sand weighted plastic, that are more environmentally friendly to use. Lead sinkers are sinkers which have a mass of one ounce or less and a lead weighted hook that measures less than one inch along its longest axis. This bill promotes the continued removal of lead in

our waters. It is the proper thing to do for the vitality of our water, the fishing industry, sportsmen and the protection of our loons, ducks, fish and all wildlife. The amendment extends the time for the ban of sales until January 1, 2006 to allow the small sporting goods shop to dispose of their inventory and to phase in their new supplies. Vote 9-5.

Rep. Thomas A. Varrell for the Minority of Fish and Game: The first portion of this bill is self-evident. We must do our best to save the loons. However the second part is absolutely unnecessary. By banning the sale of these lead sinkers throughout New Hampshire, we have put the onus on the seller and not the user and are, in effect, making it a crime to sell something that is legal to use in salt water. Since the Fish and Game Department have difficulty enforcing the existing law they have abrogated their responsibility to an undefined enforcement agency.

### **Majority Amendment (1262h)**

Amend the bill by replacing section 3 with the following:

3 Effective Date.

I. Section 2 of this act shall take effect January 1, 2006.

II. The remainder of this act shall take effect January 1, 2005.

Rep. Lars Christiansen spoke against.

Rep. Robert L'Heureux spoke in favor and yielded to questions.

Rep. Robert L'Heureux requested a roll call; sufficiently seconded.

The question being adoption of the majority committee amendment.

## **YEAS 253 NAYS 82**

### **YEAS 253**

#### **BELKNAP**

Allen, Janet	Bartlett, Gordon	Fitzgerald, James	Flanders, Donald
Holbrook, Robert	Neddeau, Stephen	Pilliod, James	Rice, Thomas
Russell, David	Thomas, John	Whalley, Michael	

#### **CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Kenney, Bettie	McConkey, Mark	Morrow, Harry	Mock, Henry
Olimpio, J Lisbeth	Patten, Betsey	Philbrick, Donald	Stevens, Stanley

#### **CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Laurent, John	Liebl, George	Manning, Joseph
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, John
Richardson, Barbara	Robertson, Timothy	Royce, H Charles	Smith, Edwin
Tilton, Anna	Webber, Amy		

#### **COOS**

King, Frederick	Mears, Edgar	Poulin, Richard	Pratt, Leighton
Stohl, Eric	Tholl, John Jr	Woodward, David	

#### **GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Dorsett, Andrew	Dudley, Terri	Eaton, Stephanie	Hammond, Lee
Ingbretson, Paul	Maybeck, Margie	Naro, Debra	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	Sorg, Gregory

#### **HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Arnold, Thomas Jr	Baroody, Benjamin
Barry, J Gail	Beaton, William	Brundige, Robert	Buckley, Raymond
Carlson, Donald	Carter, Mark	Chabot, Robert	Christensen, D L Chris
Clayton, William	Clemons, Jane	Cote, David	Cote, Peter

Coughlin, Pamela  
Dokmo, Cynthia  
Ford, Nancy  
Hagan, Barbara  
Haytayan, Harry Jr  
Infantine, William  
L'Heureux, Robert  
Malloy, Chris  
Messier, Irene  
O'Brien, Lori  
Pepino, Leo  
Rowe, Robert  
Spiess, Paul  
Tate, Joan

Craig, James  
Drisko, Richard  
Gargas, Carolyn  
Haley, Robert  
Hinkle, Peyton  
Irwin, Anne-Marie  
LaFlamme, Paul  
Martin, Mary Ellen  
Michon, Stephen  
Ober, Russell III  
Pilotte, Maurice  
Schulze, Joan  
Sullivan, Francis  
Vaillancourt, Steve

Crane, Elenore Casey  
Elliott, Larry  
Gonzalez, Carlos  
Hall, Charles  
Holden, Randolph  
Kopka, Angeline  
Lasky, Bette  
McDonough-Wallace, Alice  
Mooney, Maureen  
Pappas, Christopher  
Price, Pamela  
Shaw, Barbara  
Sullivan, Peter  
Wheeler, Robert

Desmarais, Vivian  
Emerton, Larry  
Graham, John  
Hawkins, Ken  
Hopper, Gary  
Kurk, Neal  
Leach, Edward  
McHugh, Claire  
Movsesian, Lori  
Pappas, Marc  
Reeves, Sandra  
Slocum, Lee  
Sweeney, Cynthia

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
DeStefano, Stephen  
Gile, Mary  
L'Heureux, Stephen  
MacKay, James  
Owen, Derek  
Rodd, Beth

Blanchard, Elizabeth  
Currier, David  
Foley, Albert  
Hamm, Christine  
Langer, Ray  
Maxfield, Roy  
Perkins, Randy  
Rush, Deanna

Bouchard, Candace  
Davis, Frank  
Fraser, Leo Jr  
Hess, David  
Leber, William  
Oliver, James  
Potter, Frances  
Seldin, Gloria

Brueggemann, Donald  
DeJoie, John  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla  
Osborne, Jessie  
Reed, Dennis  
Wallner, Mary Jane

### ROCKINGHAM

Abbott, Dennis  
Blanchard, MaryAnn  
Casey, Kimberley  
Dowd, John  
Gillick, Thomas  
Hamel, Albert  
Introne, Robert  
Kelley, Jane  
McEachern, Paul  
Packard, Sherman  
Robertson, Carl  
Splaine, James  
Weldy, Norman Jr

Allen, Mary  
Bridle, Russell  
Clark, Vivian  
Flanders, John Sr  
Gleason, John  
Headd, James  
Johnson, Robert  
Langone, John  
McKinney, Betsy  
Pantelakos, Laura  
Roessner, Kurt  
Tufts, J Arthur  
Wiley, Robert

Belanger, Ronald  
Camm, Kevin  
Coes, Betsy  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Katsakiores, George  
Major, Norman  
McMahon, Charles  
Priestley, Anne  
Scamman, Stella  
Waterhouse, Kevin

Bishop, Franklin  
Carson, Sharon  
Cooney, Richard  
Gilbert, Karl  
Griffin, Mary  
Ingram, Russell  
Katsakiores, Phyllis  
Manning, John  
Norelli, Terie  
Rausch, James  
Shultis, Elizabeth  
Welch, David

### STRAFFORD

Berube, Roger  
Easson, Timothy  
Kaen, Naida  
Musler, George  
Rous, Emma  
Spang, Judith

Bickford, David  
Heon, Richard  
Keans, Sandra  
Newton, Clifford  
Schmidt, Peter  
Taylor, Kathleen

Creteau, Irene  
Hofemann, Roland  
Knowles, William  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Dunlap, Patricia  
Johnson, Nancy  
Miller, Joseph  
Rollo, Deanna  
Snyder, Clair

### SULLIVAN

Allison, David  
Flint, Gordon Sr  
Rodeschin, Beverly

Burling, Peter  
Franklin, Peter

Cloutier, John  
Jones, Constance

Donovan, Thomas  
Leone, Richard

### NAYS 82

### BELKNAP

Ahern, Omer Jr

Boyce, Laurie

Clark, Charles

Wendelboe, Fran

### CARROLL

None

**CHESHIRE**

Dexter, Judson

**COOS**

Guay, Lawrence

Theberge, Robert

**GRAFTON**

Gilman, G Michael

Giuda, Robert

Ham, Bonnie

Williams, Burton

**HILLSBOROUGH**

Artz, Lawrence

Balboni, Michael

Bergeron, Jean-Guy

Bruno, Pierre

Buhlman, David

Cernota, Albert

Christiansen, Lars

Dionne, Kimberley

Fields, Dennis

Fletcher, Richard

Gibson, John

Gorman, Mary

Goyette, Peter Jr

Greenberg, Gary

Hallyburton, Margaret

Hansen, Ryan

Harrington, Paul

Jasper, Shawn

Johnson, Lionel

Katsiantonis, Thomas

Lawrence, James

Lessard, Rudy

Luebker, Bernard

McElroy, Henry Jr

Mercer, Robert

Moran, Edward

Mosher, William

Scanlon, Michael

Souza, Kathleen

Stepanek, Stephen

Wheeler, James

**MERRIMACK**

Dunne, Christopher

Field, William

Hager, Elizabeth

Kennedy, Richard

Marple, Richard

McCormick, Tom

Nutter, Edward

Soltani, Tony

**ROCKINGHAM**

Bicknell, Elbert

Cady, Harriet

DiFrancia, Anthony

Dodge, Robert

Duffy, James

Fesh, Bob

Johnson, Rogers

Kobel, Rudolph

Langley, Jane

Letourneau, Robert

McCann, Richard

Morris, Richard

O'Neil, Michael

Putnam, Ed II

Quandt, Matthew

Smith, Donald

Stone, Joseph

Varrell, Thomas

Weare, E Albert

Weyler, Kenneth

Zolla, William

**STRAFFORD**

Albert, Russell

Bemis, Alan

Campbell, W Packy

Cataldo, Sam

Harrington, Michael

Hollinger, Jeffrey

Scott, David

Twombly, James

Woods, Phyllis

**SULLIVAN**

Ferland, Brenda

Phinzy, James

and the majority amendment was adopted.

Rep. Varrell offered minority amendment (1233h).

**Minority Amendment (1233h)**

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.'

**AMENDED ANALYSIS**

This bill prohibits a person from using a lead sinker or jig while fresh water fishing. The law previously prohibited their use only in fresh water ponds and lakes.

Reps. Varrell and Gorman spoke in favor and yielded to questions.

Reps. Perkins, Kennedy and Abbott spoke against.

Rep. Varrell requested a roll call; sufficiently seconded.

The question being adoption of the minority amendment (1233h).

**YEAS 125 NAYS 203**

**YEAS 125**

**BELKNAP**

Ahern, Omer Jr  
Holbrook, Robert

Boyce, Laurie  
Nedeau, Stephen

Clark, Charles  
Wendelboe, Fran

Flanders, Donald  
Whalley, Michael

**CARROLL**

McConkey, Mark

Mock, Henry



**CHESHIRE**

Dexter, Judson

Laurent, John

Smith, Edwin

**COOS**Guay, Lawrence  
Woodward, David

King, Frederick

Stohl, Eric

Theberge, Robert

**GRAFTON**Gilman, G Michael  
Maybeck, MargieGiuda, Robert  
Williams, Burton

Ham, Bonnie

Ingbertson, Paul

**HILLSBOROUGH**Adams, Jarvis  
Baroody, Benjamin  
Buhlman, David  
Crane, Elenore Casey  
Gargas, Carolyn  
Goyette, Peter Jr  
Hansen, Ryan  
Johnson, Lionel  
McElroy, Henry Jr  
Scanlon, MichaelAllan, Nelson  
Bergeron, Jean-Guy  
Cernota, Albert  
Dionne, Kimberley  
Gibson, John  
Hagan, Barbara  
Harrington, Paul  
LaFlamme, Paul  
Mercer, Robert  
Shaw, BarbaraArtz, Lawrence  
Brundige, Robert  
Christensen, D L Chris  
Fields, Dennis  
Gonzalez, Carlos  
Hall, Charles  
Infantine, William  
Lawrence, James  
Moran, Edward  
Stepanek, StephenBalboni, Michael  
Bruno, Pierre  
Christiansen, Lars  
Fletcher, Richard  
Gorman, Mary  
Hallyburton, Margaret  
Jasper, Shawn  
Lessard, Rudy  
Mosher, William  
Wheeler, James**MERRIMACK**Anderson, Eric  
Foley, Albert  
Nutter, EdwardCurrier, David  
Kennedy, Richard  
Oliver, JamesDunne, Christopher  
Leber, William  
Soltani, TonyField, William  
Marple, Richard**ROCKINGHAM**Allen, Mary  
Camm, Kevin  
Duffy, James  
Holland, James Jr  
Katsakiores, George  
Letourneau, Robert  
Quandt, Matthew  
Waterhouse, Kevin  
Weyler, KennethBicknell, Elbert  
Carson, Sharon  
Fesh, Bob  
Ingram, Russell  
Katsakiores, Phyllis  
McCann, Richard  
Smith, Donald  
Weare, E Albert  
Zolla, WilliamBishop, Franklin  
DiFruscia, Anthony  
Francoeur, Sheila  
Johnson, Robert  
Kobel, Rudolph  
Morris, Richard  
Stone, Joseph  
Welch, DavidCady, Harriet  
Dodge, Robert  
Gilbert, Karl  
Johnson, Rogers  
Langley, Jane  
O'Neil, Michael  
Varrell, Thomas  
Weldy, Norman Jr**STRAFFORD**Albert, Russell  
Campbell, W Packy  
Harrington, Michael  
Twombly, JamesBemis, Alan  
Cataldo, Sam  
Hollinger, Jeffrey  
Woods, PhyllisBerube, Roger  
Creteau, Irene  
Newton, CliffordBickford, David  
Easson, Timothy  
Scott, David**SULLIVAN**

Ferland, Brenda

Phinizy, James

**NAYS 203****BELKNAP**Allen, Janet  
Rice, ThomasBartlett, Gordon  
Russell, DavidFitzgerald, James  
Thomas, John

Pilliod, James

**CARROLL**Babson, David Jr  
Kenney, Bettie  
Stevens, StanleyBrown, Carolyn  
Merrow, HarryDerby, Mark  
Olimpio, J LisbethDickinson, Howard  
Patten, Betsey

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Liebl, George	Manning, Joseph	Meador, David
Mitchell, McKim	Parkhurst, Henry	Pratt, John	Richardson, Barbara
Robertson, Timothy	Royce, H Charles	Tilton, Anna	Webber, Amy

**COOS**

Mears, Edgar	Poulin, Richard	Pratt, Leighton	Tholl, John Jr
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**GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Dorsett, Andrew	Hammond, Lee	Naro, Debra	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	Sorg, Gregory

**HILLSBOROUGH**

Arnold, Thomas Jr	Barry, J Gail	Beaton, William	Buckley, Raymond
Carlson, Donald	Carter, Mark	Chabot, Robert	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Desmarais, Vivian	Dokmo, Cynthia	Drisko, Richard
Elliott, Larry	Emerton, Larry	Ford, Nancy	Graham, John
Greenberg, Gary	Haley, Robert	Hawkins, Ken	Haytayan, Harry Jr
Hinkle, Peyton	Holden, Randolph	Hopper, Gary	Irwin, Anne-Marie
Katsiantonis, Thomas	Kopka, Angeline	Kurk, Neal	L'Heureux, Robert
Lasky, Bette	Leach, Edward	Luebker, Bernard	Malloy, Chris
McDonough-Wallace, Alice	McHugh, Claire	Messier, Irene	Michon, Stephen
Mooney, Maureen	Movsesian, Lori	O'Brien, Lori	Ober, Russell III
Pappas, Christopher	Pappas, Marc	Pepino, Leo	Pilote, Maurice
Price, Pamela	Reeves, Sandra	Rowe, Robert	Schulze, Joan
Slocum, Lee	Spieß, Paul	Sullivan, Francis	Sullivan, Peter
Sweeney, Cynthia	Tate, Joan	Vaillancourt, Steve	Wheeler, Robert

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Clarke, Claire
Davis, Frank	DeJoie, John	DeStefano, Stephen	Fraser, Leo Jr
French, Barbara	Gile, Mary	Hager, Elizabeth	Hamm, Christine
Hess, David	Jacobson, Alf	L'Heureux, Stephen	Langer, Ray
Lockwood, Priscilla	MacKay, James	Maxfield, Roy	McCormick, Tom
Osborne, Jessie	Owen, Derek	Perkins, Randy	Potter, Frances
Reed, Dennis	Rodd, Beth	Rush, Deanna	Seldin, Gloria
Wallner, Mary Jane			

**ROCKINGHAM**

Abbott, Dennis	Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell
Casey, Kimberley	Clark, Vivian	Coes, Betsy	Cooney, Richard
Dowd, John	Flanders, John Sr	Gillick, Thomas	Gleason, John
Gould, Kenneth	Griffin, Mary	Hamel, Albert	Headd, James
Introne, Robert	Langone, John	Major, Norman	Manning, John
McEachern, Paul	McKinney, Betsy	McMahon, Charles	Norelli, Terie
Packard, Sherman	Pantelakos, Laura	Priestley, Anne	Putnam, Ed II
Rausch, James	Robertson, Carl	Roessner, Kurt	Scamman, Stella
Shultis, Elizabeth	Splaine, James	Wiley, Robert	

**STRAFFORD**

Dunlap, Patricia	Heon, Richard	Hofemann, Roland	Johnson, Nancy
Kaen, Naida	Keans, Sandra	Knowles, William	Miller, Joseph
Musler, George	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Donovan, Thomas
Flint, Gordon Sr	Franklin, Peter	Jones, Constance	Leone, Richard

Rodeschin, Beverly  
and minority amendment (1233h) failed.  
The question now being adoption of the majority committee report.  
Rep. Goyette spoke against and yielded to questions.  
Rep. McKinney spoke in favor.  
Rep. Robert L'Heureux requested a roll call; sufficiently seconded.

**YEAS 222 NAYS 105****YEAS 222****BELKNAP**

Allen, Janet	Bartlett, Gordon	Fitzgerald, James	Pilliod, James
Rice, Thomas	Russell, David	Thomas, John	Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Marrow, Harry	Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey
Stevens, Stanley			

**CHESHIRE**

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espieffs, Peter	Fish, Douglas	Laurent, John	Liebl, George
Manning, Joseph	Meador, David	Mitchell, McKim	Parkhurst, Henry
Pratt, John	Richardson, Barbara	Robertson, Timothy	Royce, H Charles
Smith, Edwin	Tilton, Anna	Webber, Amy	

**COOS**

Mears, Edgar	Poulin, Richard	Pratt, Leighton	Stohl, Eric
Tholl, John Jr	Woodward, David		

**GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Benn, Bernard
Bleyler, Ruth	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Dorsett, Andrew	Hammond, Lee	Naro, Debra	Nordgren, Sharon
Scovner, Nancy	Sokol, Hilda	Solomon, Peter	Sorg, Gregory

**HILLSBOROUGH**

Allan, Nelson	Arnold, Thomas Jr	Balboni, Michael	Barry, J Gail
Beaton, William	Brundige, Robert	Buckley, Raymond	Carlson, Donald
Carter, Mark	Chabot, Robert	Christensen, D L Chris	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Crane, Elenore Casey	Desmarais, Vivian	Dokmo, Cynthia
Elliott, Larry	Emerton, Larry	Ford, Nancy	Gargas, Carolyn
Gonzalez, Carlos	Graham, John	Haley, Robert	Hall, Charles
Hallyburton, Margaret	Hawkins, Ken	Hinkle, Peyton	Holden, Randolph
Hopper, Gary	Infantine, William	Irwin, Anne-Marie	Katsiantonis, Thomas
Kopka, Angeline	Kurk, Neal	L'Heureux, Robert	Lasky, Bette
Leach, Edward	Malloy, Chris	McDonough-Wallace, Alice	McHugh, Claire
Messier, Irene	Michon, Stephen	Mooney, Maureen	Movsesian, Lori
O'Brien, Lori	Ober, Russell III	Pappas, Christopher	Pepino, Leo
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Rowe, Robert
Schulze, Joan	Slocum, Lee	Spiess, Paul	Sullivan, Francis
Sullivan, Peter	Sweeney, Cynthia	Tate, Joan	Vaillancourt, Steve
Wheeler, Robert			

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
Foley, Albert  
Hamm, Christine  
Langer, Ray  
McCormick, Tom  
Potter, Frances  
Seldin, Gloria

Blanchard, Elizabeth  
Davis, Frank  
French, Barbara  
Hess, David  
Leber, William  
Osborne, Jessie  
Reed, Dennis  
Wallner, Mary Jane

Bouchard, Candace  
DeJoie, John  
Gile, Mary  
Jacobson, Alf  
Lockwood, Priscilla  
Owen, Derek  
Rodd, Beth

Brueggemann, Donald  
DeStefano, Stephen  
Hager, Elizabeth  
L'Heureux, Stephen  
MacKay, James  
Perkins, Randy  
Rush, Deanna

**ROCKINGHAM**

Abbott, Dennis  
Clark, Vivian  
Flanders, John Sr  
Gould, Kenneth  
Introne, Robert  
Langone, John  
McKinney, Betsy  
Packard, Sherman  
Robertson, Carl  
Splaine, James

Blanchard, MaryAnn  
Coes, Betsy  
Francoeur, Sheila  
Griffin, Mary  
Johnson, Robert  
Major, Norman  
McMahon, Charles  
Pantelakos, Laura  
Roessner, Kurt  
Wiley, Robert

Carson, Sharon  
Cooney, Richard  
Gillick, Thomas  
Hamel, Albert  
Katsakiores, George  
Manning, John  
Norelli, Terie  
Priestley, Anne  
Scamman, Stella

Casey, Kimberley  
Dowd, John  
Gleason, John  
Headd, James  
Katsakiores, Phyllis  
McEachern, Paul  
O'Neil, Michael  
Rausch, James  
Shultis, Elizabeth

**STRAFFORD**

Berube, Roger  
Heon, Richard  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Bickford, David  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Snyder, Clair  
Woods, Phyllis

Creteau, Irene  
Johnson, Nancy  
Miller, Joseph  
Rous, Emma  
Spang, Judith

Dunlap, Patricia  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

**SULLIVAN**

Allison, David  
Flint, Gordon Sr  
Rodeschin, Beverly

Burling, Peter  
Franklin, Peter

Cloutier, John  
Jones, Constance

Donovan, Thomas  
Leone, Richard

**NAYS 105****BELKNAP**

Ahern, Omer Jr  
Holbrook, Robert

Boyce, Laurie  
Nedeau, Stephen

Clark, Charles  
Wendelboe, Fran

Flanders, Donald

**CARROLL**

Kenney, Bettie

McConkey, Mark

**CHESHIRE**

None

**COOS**

Guay, Lawrence

King, Frederick

Theberge, Robert

**GRAFTON**

Gilman, G Michael  
Maybeck, Margie

Giuda, Robert  
Williams, Burton

Ham, Bonnie

Ingbretson, Paul

**HILLSBOROUGH**

Adams, Jarvis  
Bruno, Pierre  
Dionne, Kimberley

Artz, Lawrence  
Buhlman, David  
Drisko, Richard

Baroody, Benjamin  
Cernota, Albert  
Fields, Dennis

Bergeron, Jean-Guy  
Christiansen, Lars  
Fletcher, Richard

Gibson, John  
Hagan, Barbara  
Jasper, Shawn  
Lessard, Rudy  
Moran, Edward  
Shaw, Barbara

Gorman, Mary  
Hansen, Ryan  
Johnson, Lionel  
Luebker, Bernard  
Mosher, William  
Stepanek, Stephen

Goyette, Peter Jr  
Harrington, Paul  
LaFlamme, Paul  
McElroy, Henry Jr  
Pappas, Marc  
Wheeler, James

Greenberg, Gary  
Haytayan, Harry Jr  
Lawrence, James  
Mercer, Robert  
Scanlon, Michael

### MERRIMACK

Currier, David  
Marple, Richard  
Soltani, Tony

Dunne, Christopher  
Maxfield, Roy

Field, William  
Nutter, Edward

Kennedy, Richard  
Oliver, James

### ROCKINGHAM

Allen, Mary  
Bridle, Russell  
Dodge, Robert  
Holland, James Jr  
Langley, Jane  
Putnam, Ed II  
Varrell, Thomas  
Weldy, Norman Jr

Belanger, Ronald  
Cady, Harriet  
Duffy, James  
Ingram, Russell  
Letourneau, Robert  
Quandt, Matthew  
Waterhouse, Kevin  
Weyler, Kenneth

Bicknell, Elbert  
Camm, Kevin  
Fesh, Bob  
Johnson, Rogers  
McCann, Richard  
Smith, Donald  
Weare, E Albert  
Zolla, William

Bishop, Franklin  
DiFruscia, Anthony  
Gilbert, Karl  
Kobel, Rudolph  
Morris, Richard  
Stone, Joseph  
Welch, David

### STRAFFORD

Albert, Russell  
Eason, Timothy  
Scott, David

Bemis, Alan  
Harrington, Michael  
Twombly, James

Campbell, W Packy  
Hollinger, Jeffrey

Cataldo, Sam  
Newton, Clifford

### SULLIVAN

Ferland, Brenda  
and the majority committee report was adopted.  
Ordered to third reading.

Phinizy, James

### WITHOUT OBJECTION

#### SPECIAL ORDERS

Without objection, the Speaker ordered that the bills removed from today's Consent Calendar, **SB 478-FN**, relative to penalties for DWI offenses, **SB 153**, adopting the nurse licensure compact, **SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting, and the remaining bills from today's Regular Calendar, **SB 109**, adopting the model Drug Dealer Liability Act, **SB 449**, relative to fluoridation of municipally-owned public water systems, **SB 533**, relative to licensing requirements for certain recreation and child care programs, be made Special Orders for Thursday, May 6, 2004.

### RESOLUTION

Rep. Hess offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, May 6, 2004 at 10:00 a.m.  
Adopted.

### LATE SESSION

#### Third reading and final passage

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

**SB 366-FN**, relative to the Interstate Insurance Product Compact.

**SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004.

**SB 430-FN**, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.

**SB 441**, relative to the operation of dental clinics by healthcare charitable trusts.

**SB 442**, relative to manufactured housing installation standards.

**SB 312-FN**, establishing a state code of ethics.

**SB 375**, relative to the regulation of physician assistants.

**SB 445**, relative to the regulation of dietitians by the board of licensed dietitians.

**SB 324-FN-A-L**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality.

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts.

**SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members.

**SB 352-FN-L**, relative to computing school building aid grant amounts.

**SB 409-FN**, revising the vocational school licensing statutes.

**SB 436-FN-L**, relative to the Claremont and Newport district courts.

**SB 504-FN**, relative to disbursements from the alcohol abuse prevention and treatment fund

**SB 423**, relative to confidentiality and workers' compensation.

**SB 509-FN**, relative to civil recoveries for false claims paid or approved by the department of health and human services.

**SB 531**, permitting the state veterans' advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit.

**SJR 2**, designating a Purple Heart Trail in New Hampshire.

**SB 406**, relative to adoption procedures.

**SB 520**, relative to modification of child support obligation.

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay.

**SB 434**, relative to importing prescription drugs from Canada.

**SB 484**, establishing the Collaborative Practice for Emergency Contraception Act.

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies.

**SB 333-FN**, establishing a unique pupil identification system.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

**SB 382-FN-L**, relative to medical service rates for state prisoners.

**SB 487**, relative to lead sinkers.

### RECONSIDERATION

Having voted with the prevailing side, Rep. Keans moved that the House reconsider its action whereby it voted **SB 484**, establishing the Collaborative Practice for Emergency Contraception Act, Ought to Pass.

Rep. Keans spoke against.

Motion failed.

### RECESS MOTION

Rep. Hess moved that the House stand in recess for the purposes of enrolled bill amendments, enrolled bill reports and receiving Senate messages only.

Adopted.

The House recessed at 3:45 p.m.

### RECESS

### (Speaker Chandler in the Chair)

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 15

Thursday, May 6, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Bestow upon this honorable House today, O Lord, wisdom, courage, skill, compassion, and a love of country, that all the citizens of our beloved New Hampshire may be proud of their elected representatives and inspired to participate in the democratic traditions celebrated in this hallowed chamber.

Be with all those today who stand in harm's way to protect and defend us with honor and courage. Amen.

Rep. David H. Russell led the Pledge of Allegiance.

The National Anthem was sung by Maura Quinn, a senior at the University of New Hampshire.

### LEAVES OF ABSENCE

Reps. Flanagan, Gionet, Joseph Harris, Sandra Harris, Lefebvre, Moore and Pitts, the day, illness. Reps. Timothy Allen, Bergin, Corbin, Daniels, DeJoie, Duffy, Dumaine, Jeffrey Gilbert, Hatch, Itse, Lawton, McRae, Movsesian, Reardon, Herbert Richardson, Royce, Slack, Paul Smith, Peter Sullivan, Winchell and Woodward, the day, important business.

Rep. Dalrymple, the day, illness in the family.

### INTRODUCTION OF GUESTS

John and Greta Olmstead, and Lorena Perez, guests of Rep. Thomas. James Dean, guest of Rep. Dudley.

### SENATE MESSAGES

#### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 730-FN-L**, establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases. (Amendment printed SJ 04/01/04)

Rep. Gilman moved that the House concur and spoke in favor.

Adopted.

**HB 1298**, establishing a committee to study local dispute resolution for public employee labor relations. (Amendment printed SJ 04/08/04)

Rep. Gilman moved that the House concur and spoke in favor.

Adopted.

**HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks. (Amendments printed SJ 04/22/04)

Rep. Welch moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Welch, Knowles, Bemis and Bicknell.

**HB 1162**, relative to school district policies on bullying. (Amendment printed SJ 04/22/04)

Rep. Stephen L'Heureux moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Mark Carter, Naro, Carson and Jean.

**HB 176**, relative to listing candidates on ballots. (Amendment printed SJ 04/22/04)

Rep. Whalley moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Drisko, Whalley, Reeves and Dorsett.

**HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. (Amendments SJ 4/29/04)

Reps. Edwin Smith and Kurk moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Edwin Smith, Candace Bouchard, Waterhouse and Robert Wheeler.

**HB 1401-FN**, limiting the use of traffic signal preemption devices. (Amendments printed SJ 04/29/04)  
Rep. Packard moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Packard, Royce, Letourneau and Ferland.

## REGULAR CALENDAR

**SB 109**, adopting the model Drug Dealer Liability Act. **OUGHT TO PASS WITH AMENDMENT**  
Rep. Bette R. Lasky for Judiciary: This bill as amended creates a drug dealer liability act to provide a civil remedy for persons injured as a result of illegal drug use. This act will enable these people to recover economic and non-economic damages from those in the illegal drug market. This bill also intends to hold liable, to the extent possible, those in the drug distribution chain who most profit from this illegal activity. In addition, it is hoped that the creation of this act will be a deterrent to those thinking of entering the illegal drug market by making their activities considerably less profitable. Vote 11-4.

### Amendment (1192h)

Amend the bill by replacing all after the enacting clause with the following:

1 New Chapter; Model Drug Dealer Liability Act. Amend RSA by inserting after chapter 318-B the following new chapter:

#### CHAPTER 318-C

##### MODEL DRUG DEALER LIABILITY ACT

318-C:1 Title. This chapter may be cited as the Drug Dealer Liability Act.

318-C:2 Purpose. The purpose of this chapter is to:

I. Provide a civil remedy for damages to persons in a community injured as a result of illegal drug use. These persons include parents, employers, insurers, governmental entities, and others who pay for drug treatment or employee assistance programs, as well as infants injured as a result of exposure to drugs in utero ("drug babies"). The chapter will enable them to recover damages from those persons in the community who have joined the illegal drug market.

II. Shift, to the extent possible, the cost of the damage caused by the existence of the illegal drug market in a community to those who illegally profit from that market.

III. Establish the prospect of substantial monetary loss as a deterrent to those who have not yet entered into the illegal drug distribution market.

IV. Establish an incentive for drug users to identify and seek payment for their own drug treatment from those dealers who have sold drugs to the user in the past.

318-C:3 Findings. The legislature finds and declares all of the following:

I. Every community in the country is affected by the marketing and distribution of illegal drugs. A vast amount of state and local resources are expended in coping with the financial, physical, and emotional toll that results from the existence of the illegal drug market. Families, employers, insurers, and society in general bear the substantial costs of coping with the marketing of illegal drugs. Drug babies and parents, particularly those of adolescent illegal drug users, suffer significant non-economic injury as well.

II. Although the criminal justice system is an important weapon against the illegal drug market, the civil justice system can and must also be used. The civil justice system can provide an avenue of compensation for those who have suffered harm as a result of the marketing and distribution of illegal drugs. The persons who have joined the illegal drug market should bear the cost of the harm caused by that market in the community.

III. The threat of liability under this chapter serves as an additional deterrent to a recognizable segment of the illegal drug network. A person who has non-drug related assets, who markets illegal drugs at the workplace, who encourages friends to become users, among others, is likely to decide



that the added cost of entering the market is not worth the benefit. This is particularly true for a first-time casual dealer who has not yet made substantial profits. This act provides a mechanism for the cost of the injury caused by illegal drug use to be borne by those who benefit from illegal drug dealing.

IV. This chapter imposes liability against all participants in the illegal drug market, including small dealers, particularly those in the workplace, who are not usually the focus of criminal investigations. The small dealers increase the number of users and are the people who become large dealers. These small dealers are most likely to be deterred by the threat of liability.

V. A parent of an adolescent illegal drug user often expends considerable financial resources, typically in the tens of thousands of dollars, for the child's drug treatment. Local and state governments provide drug treatment and related medical services made necessary by the distribution of illegal drugs. The treatment of drug babies is a considerable cost to local and state governments. Insurers pay large sums for medical treatment relating to drug addiction and use. Employers suffer losses as a result of illegal drug use by employees due to lost productivity, employee drug-related workplace accidents, employer contributions to medical plans, and the need to establish and maintain employee assistance programs. Large employers, insurers, and local and state governments have existing legal staffs that can bring civil suits against those involved in the illegal drug market, in appropriate cases, if a clear legal mechanism for liability and recovery is established.

VI. Drug babies, who are clearly the most innocent and vulnerable of those affected by illegal drug use, are often the most physically and mentally damaged due to the existence of an illegal drug market in a community. For many of these babies, the only hope is extensive medical and psychological treatment, physical therapy, and special education. All of these potential remedies are expensive. These babies, through their legal guardians and through court appointed guardians ad litem, should be able to recover damages from those in the community who have entered and participated in the marketing of the types of illegal drugs that have caused their injuries.

VII.(a) In theory, civil actions for damages for distribution of illegal drugs can be brought under existing law. They are not. Several barriers account for this. Under existing tort law, only those dealers in the actual chain of distribution to a particular user could be sued. Drug babies, parents of adolescent illegal drug users, and insurers are not likely to be able to identify the chain of distribution to a particular user. Furthermore, drug treatment experts largely agree that users are unlikely to identify and bring suit against their own dealers, even after they have recovered, given the present requirements for a civil action.

(b) Recovered users are similarly unlikely to bring suit against others in the chain of distribution, even if they know the user. A user is unlikely to know other dealers in the chain of distribution. Unlike the chain of distribution for legal products, in which records identifying the parties to each transaction in the chain are made and shared among the parties, the distribution of illegal drugs is clandestine. Its participants expend considerable effort to keep the chain of distribution secret.

VIII. Those involved in the illegal drug market in a community are necessarily interrelated and interdependent, even if their identity is unknown to one another. Each new dealer obtains the benefit of the existing illegal drug distribution system to make illegal drugs available to him or her. In addition, the existing market aids a new entrant by the prior development of people as users. Many experts on the illegal drug market agree that all participants are ultimately likely to be indirectly related. That is, beginning with any one dealer, given the theoretical ability to identify every person known by that dealer to be involved in illegal drug trafficking, and in turn each of such others know to them, and so on, the illegal drug market in a community would ultimately be fully revealed.

IX. Market liability has been created with respect to legitimate products by judicial decision in some states. It provides for civil recovery by plaintiffs who are unable to identify the particular manufacturer of the product that is claimed to have caused them harm, allowing recovery from all manufacturers of the product who participated in that particular market. The market liability theory has been shown to be destructive of market initiative and product development when applied to legitimate markets. Because of its potential for undermining markets, this chapter expressly adopts a legislatively crafted form of liability for those who intentionally join the illegal drug market. The liability established by this chapter grows out of, but is distinct from, existing judicially crafted market liability.

X. The prospect of a future suit for the costs of drug treatment may drive a wedge between prospective dealers and their customers by encouraging users to turn on their dealers. Therefore, liability for those costs, even to the user, is imposed under this chapter as long as the user identifies and brings suit against his or her own dealers.

XI. Allowing dealers who face a civil judgment for their illegal drug marketing to bring suit against their own sources for contribution may also drive a wedge into the relationships among some participants in the illegal drug distribution network.

XII. While not all persons who have suffered losses as a result of the marketing of illegal drugs will pursue an action for damages, at least some individuals, guardians of drug babies, government agencies that provide treatment, insurance companies, and employers will find such an action worthwhile. These persons deserve the opportunity to recover their losses. Some new entrants to retail illegal drug dealing are likely to be deterred even if only a few of these suits are actually brought.

318-C:4 Definitions. As used in this chapter:

I. "Illegal drug" means any drug which is a schedule I-IV drug under RSA 318-B.

II. "Illegal drug market" means the support system of illegal drug related operations, from production to retail sales, through which an illegal drug reaches the user.

III. "Illegal drug market target community" is the area described under RSA 318-C:9.

IV. "Individual drug user" means the individual whose illegal drug use is the basis of an action brought under this chapter.

V. "Level 1 offense" means possession of  $\frac{1}{4}$  ounce or more, but less than 4 ounces, or distribution of less than one ounce of an illegal drug other than marijuana, or possession of one pound or more or 25 plants or more, but less than 4 pounds or 50 plants, or distribution of more than  $\frac{1}{2}$  pound but less than one pound of marijuana.

VI. "Level 2 offense" means possession of 4 ounces or more, but less than 8 ounces, or distribution of one ounce or more, but less than 2 ounces, of an illegal drug other than marijuana, or possession of 4 pounds or more or 50 plants or more but less than 8 pounds or 75 plants or distribution of one pound or more but less than 5 pounds of marijuana.

VII. "Level 3 offense" means possession of 8 ounces or more, but less than 16 ounces, or distribution of 2 ounces or more, but less than 4 ounces, of an illegal drug other than marijuana, or possession of 8 pounds or more or 75 plants or more, but less than 16 pounds or 100 plants, or distribution of 5 pounds or more but less than 10 pounds of marijuana.

VIII. "Level 4 offense" means possession of 16 ounces or more or distribution of 4 ounces or more of an illegal drug other than marijuana, or possession of 16 pounds or more or 100 plants or more or distribution of 10 pounds or more of marijuana.

IX. "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, commit an act intended to facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or commit an act intended to facilitate the marketing and distribution of an illegal drug. "Participate in the illegal drug market" does not include the purchase or receipt of an illegal drug for personal use only.

X. "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association, existing under or authorized by the laws of this state, another state, or foreign country.

XI. "Period of illegal drug use" means, in relation to the individual drug user, the time of the individual's first use of an illegal drug to the accrual of the cause of action. The period of illegal drug use is presumed to commence 2 years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

XII. "Place of illegal drug activity" means, in relation to the individual drug user, each house of representatives' legislative district in which the individual possesses or uses an illegal drug or in which the individual resides, attends school, or is employed during the period of the individual's illegal drug use, unless the defendant proves otherwise by clear and convincing evidence.

XIII. "Place of participation" means, in relation to a defendant in an action brought under this chapter, each house of representatives' legislative district in which the person participates in the illegal drug market or in which the person resides, attends school, or is employed during the period of the person's participation in the illegal drug market.

318-C:5 Liability for Participation in the Illegal Drug Market.

I. A person who knowingly participates in the illegal drug market within this state is liable for civil damages as provided in this chapter. A person may recover damages under this chapter for injury resulting from an individual's use of an illegal drug.

II. A law enforcement officer or agency, the state, or a person acting at the direction of a law enforcement officer or agency or the state is not liable for participating in the illegal drug market, if the participation is in furtherance of an official investigation.

**318-C:6 Recovery of Damages.**

I. One or more of the following persons may bring an action for damages caused by an individual's use of an illegal drug:

- (a) A parent, legal guardian, child, spouse, or sibling of the individual drug user.
- (b) An individual who was exposed to an illegal drug in utero.
- (c) An employer of the individual drug user.
- (d) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise expended money on behalf of the individual drug user.
- (e) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

II. A person entitled to bring an action under this section may seek damages from a person convicted of a drug offense or a person who knowingly distributed, or knowingly participated in the chain of distribution of, the illegal drug that was actually used by the individual drug user and that was the proximate cause of the recoverable losses.

II-a. No governmental entity may bring an action against a person until after that person has been convicted of a criminal act related to the possession, manufacture, or distribution of drugs.

III. A person entitled to bring an action under this section may recover all of the following damages:

- (a) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug use.
- (b) Non-economic damages, including, but not limited to, physical and emotional pain, suffering, physical impairment, emotional distress, mental anguish, disfigurement, loss of enjoyment, loss of companionship, services and consortium, and other non-pecuniary losses proximately caused by an individual's use of an illegal drug.
- (c) Reasonable attorney fees.
- (d) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

**318-C:7 Limited Recovery of Damages.**

I. An individual drug user shall not bring an action for damages caused by the use of an illegal drug, except as otherwise provided in this paragraph. An individual drug user may bring an action for damages caused by the use of an illegal drug only if all of the following conditions are met:

- (a) The individual personally discloses to narcotics enforcement authorities, more than 6 months before filing the action, all of the information known to the individual regarding all that individual's sources of illegal drugs;
- (b) The individual has not used an illegal drug within the 6 months before filing the action; and
- (c) The individual continues to remain free of the use of an illegal drug throughout the pendency of the action.

II. A person entitled to bring an action under this section may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

III. A person entitled to bring an action under this section may recover only the following damages:

- (a) Economic damages, including, but not limited to, the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the person's illegal drug use.
- (b) Reasonable attorney fees.
- (c) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

**318-C:8 Third Party Cases.** A third party shall not pay damages awarded under this chapter, or provide a defense or money for a defense, on behalf of an insured under a contract of insurance or indemnification.

**318-C:9 Illegal Drug Market Target Community.** A person whose participation in the illegal drug market constitutes the following level offense shall be considered to have the following illegal drug market target community:

I. For a level 1 offense, the New Hampshire house of representatives' legislative district in which the defendant's place of participation is situated.

II. For a level 2 offense, the target community described in paragraph I plus all New Hampshire house of representative's legislative districts with a border contiguous to that target community.

III. For a level 3 offense, the target community described in paragraph II plus all New Hampshire house of representatives' legislative districts with a border contiguous to that target community.

IV. For a level 4 offense, the state.

#### 318-C:10 Joinder of Parties.

I. Two or more persons may join in one action under this chapter as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

II. Two or more persons may be joined in one action under this chapter as defendants if those persons are liable to at least one plaintiff.

III. A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more plaintiffs according to their respective rights to relief and against one or more defendants according to their respective liabilities.

#### 318-C:11 Comparative Responsibility.

I. An action by an individual drug user is governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

II. The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

III. Comparative responsibility shall not be attributed to a plaintiff who is not an individual drug user.

318-C:12 Contribution Among and Recovery from Multiple Defendants. A person subject to liability under this chapter has a right of action for contribution against another person subject to liability under this chapter. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery in accordance with this chapter and existing law against a person whom a defendant has asserted a right of contribution.

#### 318-C:13 Standard of Proof; Effect of Criminal Drug Conviction.

I. Proof of participation in the illegal drug market in an action brought under this chapter shall be shown by clear and convincing evidence. Except as otherwise provided in this chapter, other elements of the cause of action shall be shown by a preponderance of the evidence.

II. A person against whom recovery is sought who has a criminal conviction pursuant to RSA 318-B or other state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 Stat. 1236, codified at 21 U.S.C. 801 et seq., is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the person's participation in the illegal drug market during the 2 years preceding the date of an act giving rise to a conviction.

III. The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.

#### 318-C:14 Prejudgment Attachment and Execution on Judgments.

I. A plaintiff under this chapter, subject to paragraph II, may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

II. Any assets sought to satisfy a judgment under this chapter that are named in a forfeiture action or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

#### 318-C:15 Statute of Limitations.

I. Except as otherwise provided in this section, a claim under this chapter shall not be brought more than 2 years after the cause of action accrues. A cause of action accrues under this chapter

when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

II. For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery under this chapter or as otherwise provided by law. For a defendant, the statute of limitations under this section is tolled until 6 months after the individual potential defendant is convicted of a criminal drug offense or as otherwise provided by law.

III. The statute of limitations under this chapter for a claim based on participation in the illegal drug market that occurred prior to the effective date of this chapter does not begin to run until the effective date of this chapter.

#### 318-C:16 Representation of Governmental Entities: Stay of Action.

I. A prosecuting attorney may represent the state or a political subdivision of the state in an action brought under this chapter.

II. Upon the filing of an action under this chapter, the plaintiff shall give immediate notice in writing and provide a copy of the writ to the attorney general. The attorney general shall notify the United States Department of Justice or other appropriate federal agency of such action.

III. On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this chapter shall be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

318-C:17 Effect on Existing Laws. The provisions of this chapter are not intended to alter the law regarding intra-family tort immunity.

318-C:18 Severability. If any provision of this chapter or the application of any provision to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to any other person or circumstance shall not be affected by that invalidation.

2 Effective Date. This act shall take effect January 1, 2005.

Rep. Almy spoke against and yielded to questions.

Rep. Soltani spoke in favor.

Rep. Soltani requested a roll call; sufficiently seconded.

The question being adoption of the committee amendment.

### YEAS 204 NAYS 139

#### YEAS 204

##### BELKNAP

Ahern, Omer Jr  
Fitzgerald, James  
Nedeau, Stephen  
Wendelboe, Fran

Bartlett, Gordon  
Flanders, Donald  
Rice, Thomas  
Whalley, Michael

Boyce, Laurie  
Holbrook, Robert  
Russell, David

Dewhirst, Glenn  
Laflam, Robert  
Thomas, John

##### CARROLL

Babson, David Jr  
Merrow, Harry  
Stevens, Stanley

Brown, Carolyn  
Mock, Henry

Kenney, Bettie  
Patten, Betsey

McConkey, Mark  
Philbrick, Donald

##### CHESHIRE

Laurent, John

Manning, Joseph

Richardson, Barbara

Smith, Edwin

##### COOS

Guay, Lawrence  
Tholl, John Jr

King, Frederick

Pratt, Leighton

Stohl, Eric

##### GRAFTON

Alger, John  
Gilman, G Michael  
Naro, Debra

Barker, Robert  
Giuda, Robert  
Sorg, Gregory

Dorsett, Andrew  
Ham, Bonnie  
Williams, Burton

Dudley, Terri  
Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Balcom, John	Baroody, Benjamin	Barry, J Gail	Batula, Peter
Bergeron, Jean-Guy	Brassard, Paul	Brundige, Robert	Carter, Jeffrey
Carter, Mark	Cernota, Albert	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clayton, William	Clemons, Jane	Coughlin, Pamela
Craig, James	Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Gargas, Carolyn
Gibson, John	Gonzalez, Carlos	Gorman, Mary	Goyette, Peter Jr
Graham, John	Greenberg, Gary	Hall, Charles	Hallyburton, Margaret
Hansen, Ryan	Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr
Hinkle, Peyton	Holden, Randolph	Hopper, Gary	Hunter, Bruce
Infantine, William	Jasper, Shawn	Kurk, Neal	L'Heureux, Robert
Laflamme, Charles	LaFlamme, Paul	Lasky, Bette	Lawrence, James
Lessard, Rudy	Malloy, Chris	McHugh, Claire	Mercer, Robert
Michon, Stephen	Mooney, Maureen	Moran, Edward	Mosher, William
O'Brien, Lori	Palangas, Eric	Price, Pamela	Reeves, Sandra
Ross, Lawrence	Rowe, Robert	Scanlon, Michael	Stepanek, Stephen
Tahir, Saghir	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Currier, David	DeStefano, Stephen
Dunne, Christopher	Field, William	Foley, Albert	Fraser, Leo Jr
Hager, Elizabeth	Hess, David	Jacobson, Alf	Kenison, Leon
Kennedy, Richard	L'Heureux, Stephen	Langer, Ray	Leber, William
Lockwood, Priscilla	MacKay, James	Oliver, James	Seldin, Gloria
Soltani, Tony			

**ROCKINGHAM**

Belanger, Ronald	Bishop, Franklin	Bridle, Russell	Cady, Harriet
Camm, Kevin	Carson, Sharon	Casey, Kimberley	Cooney, Richard
DiFruscia, Anthony	Dodge, Robert	Dowd, John	Fesh, Bob
Flanders, John Sr	Francoeur, Sheila	Gilbert, Karl	Gillick, Thomas
Gleason, John	Gould, Kenneth	Griffin, Mary	Hamel, Albert
Headd, James	Holland, James Jr	Hughes, Daniel	Hutchinson, Karen
Ingram, Russell	Introne, Robert	Johnson, Robert	Johnson, Rogers
Katsakiores, George	Katsakiores, Phyllis	Kobel, Rudolph	Langley, Jane
Langone, John	Letourneau, Robert	Manning, John	McKinney, Betsy
McMahon, Charles	Morris, Richard	Noyes, Richard	Packard, Sherman
Priestley, Anne	Quandt, Matthew	Rausch, James	Roessner, Kurt
Ruffner, Walter	Stone, Joseph	Vallone, Matthew	Varrell, Thomas
Waterhouse, Kevin	Weare, E Albert	Welch, David	Weyler, Kenneth
Wiley, Robert			

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Cataldo, Sam
Easson, Timothy	Hofemann, Roland	Musler, George	Newton, Clifford
Twombly, James	Woods, Phyllis		

**SULLIVAN**

Donovan, Thomas	Leone, Richard	Rodeschin, Beverly
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**NAYS 139****BELKNAP**

Allen, Janet	Clark, Charles	Pilliod, James
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**CARROLL**

Dickinson, Howard	Olimpio, J Lisbeth
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**CHESHIRE**

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espiefs, Peter	Fish, Douglas	Hunt, John	Liebl, George
Meador, David	Mitchell, McKim	Parkhurst, Henry	Pratt, Irene
Pratt, John	Robertson, Timothy	Tilton, Anna	Webber, Amy
Weed, Charles			

**COOS**

Brady, Mark	Mears, Edgar	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Eaton, Stephanie
Hammond, Lee	Ingbertson, Paul	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter		

**HILLSBOROUGH**

Allan, Nelson	Beaton, William	Bruno, Pierre	Buckley, Raymond
Buhman, David	Carlson, Donald	Cote, David	Cote, Peter
Hagan, Barbara	Haley, Robert	Irwin, Anne-Marie	Jean, Claudette
Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline	Leach, Edward
Luebkert, Bernard	Martin, Mary Ellen	Messier, Irene	Ober, Russell III
Pappas, Christopher	Pappas, Marc	Pepino, Leo	Pilotte, Maurice
Schulze, Joan	Slocum, Lee	Souza, Kathleen	Spies, Paul
Sullivan, Francis	Tate, Joan	Vaillancourt, Steve	Wheeler, James

**MERRIMACK**

Bouchard, Candace	Brueggemann, Donald	Clarke, Claire	Davis, Frank
French, Barbara	Hamm, Christine	Marple, Richard	Maxfield, Roy
McCormick, Tom	Nutter, Edward	Osborne, Jessie	Owen, Derek
Potter, Frances	Reed, Dennis	Rodd, Beth	Rush, Deanna
Wallner, Mary Jane			

**ROCKINGHAM**

Abbott, Dennis	Allen, Mary	Bicknell, Elbert	Blanchard, MaryAnn
Clark, Vivian	Coes, Betsy	Kelley, Jane	Major, Norman
McCann, Richard	McEachern, Paul	Norelli, Terie	Pantelakos, Laura
Putnam, Ed II	Robertson, Carl	Shultis, Elizabeth	Smith, Donald
Splaine, James	Tufts, J Arthur	Weldy, Norman Jr	Zolla, William

**STRAFFORD**

Albert, Russell	Bickford, David	Creteau, Irene	Dunlap, Patricia
Grassie, Anne	Harrington, Michael	Heon, Richard	Hollinger, Jeffrey
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rollo, Deanna	Rous, Emma
Schmidt, Peter	Smith, Marjorie	Snyder, Clair	Spang, Judith
Taylor, Kathleen	Wall, Janet		

**SULLIVAN**

Allison, David	Burling, Peter	Cloutier, John	Ferland, Brenda
Flint, Gordon Sr	Franklin, Peter	Jones, Constance	Phinizy, James

and the committee amendment was adopted.

Rep. Hopper offered a floor amendment (1482h), spoke in favor and yielded to questions.

Rep. Whalley spoke in favor.

**Floor Amendment (1482h)**

Amend the title of the bill by replacing it with the following:

**AN ACT** adopting the model Drug Dealer Liability Act and permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Paragraph; Sexual Assault; Testimony and Evidence. Amend RSA 632-A:6 by inserting after paragraph IV the following new paragraph:

V. At the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, the court shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

#### AMENDED ANALYSIS

This bill adopts the model Drug Dealer Liability Act, which has been adopted by the bipartisan American Legislative Exchange Council.

This bill provides that the court, upon the request of a sexual assault victim who is 16 years of age or younger, and with the approval of the prosecutor, shall permit the parents or legal guardians to remain with the sexual assault victim during the entirety of the court proceedings in cases under RSA 632-A.

Floor amendment (1482h) adopted.

Report adopted and ordered to third reading.

**SB 449**, relative to fluoridation of municipally-owned public water systems. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: OUGHT TO PASS WITH AMENDMENT.**

Rep. Thomas J. Gillick for the Majority of Municipal and County Government: This bill addresses a matter that was raised by the New Hampshire Supreme Court over an issue with the Manchester Water Works. The question was whether municipalities that received their water supply from another municipality must have a say as to using fluoride in the public water supply or not. The New Hampshire Supreme Court stated that RSA 485:14 is unclear in that there is no provision to allow voters outside the municipal boundaries to have a say in whether fluoride is introduced or not. In its ruling the court gave the legislature time to consider amending RSA 485:14. We as a committee felt that given this option, it is our duty to address this issue. Once we researched the issue we uncovered the fact that there are many aspects to this complex issue. There are many multi-municipality agreements that range from large to small population base users, similar to multi-town school districts. For example, in one of the multi-municipality agreements the receiving community consists of only ten users. Previously in RSA 485:14 only single town municipalities were allowed to vote on the issue of using fluoride in their public water supply. We have established a method that enables all municipalities to have their preference counted in the aggregate with respect to the use of fluoride in their public water supply. We accomplished this by expanding the ability of these other municipalities using the water supply to have a voting right by changing the verbiage from singular to plural and revising the referendum process. The amendment further revises RSA 485:14 by defining a municipality as having one hundred or more user connections served by the public water supply. Along with changing the referendum process already in RSA 31:17-a, 44:16 and 52:23 which pertain to single municipality public water supplies, we added RSA 485:14-a which pertains to multi-municipality public water supply referendum process. The Municipal and County Government Committee worked hard to address the issue of the voting rights of the multi-municipality users of public water supplies. Vote 9-3.

Rep. Nancy K. Johnson for the Minority of Municipal and County Government: The minority does not agree that a municipality should be defined as only those that have more than 100 water connection users. There are no municipalities receiving water from the City of Manchester, Water Works Department with less than 100 connections. The number "100" is arbitrary and unnecessary and could affect other municipalities in the future. The amendment offered by the minority simply eliminates the definition of municipalities to those with 100 or more water connections.

#### Majority Amendment (1333h)

Amend the bill by replacing all after the enacting clause with the following:

1 Use of Fluoride; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluoride. No fluoride shall be introduced into the public water supply unless and until the municipality or municipalities using said waters have held a public hearing as to the introduction of fluoride into the public water supply of said municipality or municipalities, and the



registered voters of such municipality or municipalities have approved such action pursuant to RSA 44:16, RSA 31:17-a, RSA 52:23 or RSA 485:14-a. For purposes of this section "municipality" means a municipality that has 100 or more user connections that are served from the public water supply.

2 New Section; Referendum for Public Water Systems Serving More Than One Political Subdivision. Amend RSA 485 by inserting after section 14 the following new section:

485:14-a Referendum Procedure for Public Water Systems Serving More Than One Political Subdivision.

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

II. In this section:

(a) "Town" means town as defined in RSA 21:5.

(b) "Selectmen" means selectmen as defined in RSA 21:28.

3 Referendum on the use of Fluoride. RSA 31:17-a is repealed and reenacted to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the registered voters of the town shall, by majority vote, approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

4 Public Water Supplies; Referendum on the use of Fluoride. RSA 44:16 is repealed and reenacted to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the city shall, by majority vote, approve the use of such fluoride. After such popular referendum, the city clerk shall not insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election

for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

5 Public Water; Referendum on the use of Fluoride. RSA 52:23 is repealed and reenacted to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district, presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the district shall, by majority vote, approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

6 Applicability. Any public water system serving more than one municipality which introduced fluoride into the water supply prior to July 1, 2004 may continue the use of fluoride until a referendum under RSA 485:14-a has taken place.

7 Effective Date. This act shall take effect July 1, 2004.

### AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

Majority amendment adopted.

Rep. Patten offered a floor amendment (1440h).

### Floor Amendment (1440h)

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 Special Procedure; Municipalities Receiving Water From the City of Manchester, Water Works Department.

I. Notwithstanding RSA 485:14-a, the secretary of state shall place the following question on the September 2004 state primary election ballot and on a separate ballot for undeclared voters for the city of Manchester and other municipalities receiving water from the city of Manchester, water works department: "Shall fluoride be used in the Manchester public water system?"

II. When the secretary of state has received the returns on the question in paragraph I, he or she shall examine, record, and total such returns and shall declare the outcome.

III. The secretary of state shall forward one copy of the outcome to the clerk of the city of Manchester.

IV. The city of Manchester, water works department, may continue to use fluoride until the secretary of state notifies the Manchester city clerk of the outcome of the question in paragraph I. If a majority of those voting in all of the municipalities combined does not approve the use of fluoride in the Manchester public water system, the use of fluoride shall be discontinued.

V. To the extent that there is an additional expense for printing the question, the expense shall be paid by the city of Manchester, water works department.

### AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

IV. Creates a procedure for a vote in the September 2004 state primary election on the use of fluoride in the municipalities served by the city of Manchester, water works department.

Reps. Patten and Paul Harrington spoke in favor.

Floor amendment (1440h) adopted.

Rep. Nancy Johnson offered the minority amendment (1445h) and spoke in favor.

### Minority Amendment (1445h)

Amend the bill by replacing all after the enacting clause with the following:

1 Use of Fluoride; Public Water Systems Serving More Than One Political Subdivision. RSA 485:14 is repealed and reenacted to read as follows:

485:14 Use of Fluoride. No fluoride shall be introduced into the public water supply unless and until the municipality or municipalities using said waters have held a public hearing as to the introduction of fluoride into the public water supply of said municipality or municipalities, and the registered voters of such municipality or municipalities have approved such action pursuant to RSA 44:16, RSA 31:17-a, RSA 52:23 or RSA 485:14-a.

2 New Section; Referendum for Public Water Systems Serving More Than One Political Subdivision. Amend RSA 485 by inserting after section 14 the following new section:

485:14-a Referendum Procedure for Public Water Systems Serving More Than One Political Subdivision.

I. Upon the written application of the aggregate of 10 percent of the registered voters in all of the towns served by a water system, presented to the clerk of the town owning the water system at least 90 days before the day prescribed for an annual town meeting or city election, the clerk shall forward a copy of the petition to each town served by the water system. Upon receipt of the petition, the selectmen of the town shall insert on the warrant or the official ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves multiple towns does not approve the use of fluoride in the public water system, no fluoride shall be introduced into the public water system for said towns. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than the aggregate of 10 percent of the registered voters of all of the towns.

II. In this section:

(a) "Town" means town as defined in RSA 21:5.

(b) "Selectmen" means selectmen as defined in RSA 21:28.

3 Referendum on the use of Fluoride. RSA 31:17-a is repealed and reenacted to read as follows:

31:17-a Referendum. Upon the written application of 10 percent of the registered voters in a town, presented to the selectmen or one of them at least 15 days before the day prescribed for an annual town meeting, the selectmen shall insert in their warrant for such meeting an article relative to the use of fluoride in the public water system for said town. If the town has an official ballot, the town clerk shall insert on such ballot the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality does not approve the use of fluoride in the public

water system, no fluoride shall be introduced into the public water system for said town; or if fluoride has prior to said vote, been introduced, such use shall be discontinued until such time as the registered voters of the town shall, by majority vote, approve the use of fluoride. After such popular referendum, the selectmen shall not insert an article relative to the use of fluoride in the public water system in the warrant nor shall such question be inserted on the official ballot for a minimum period of 3 years from the date of the last popular referendum and only upon written application at that time of not less than 10 percent of the registered voters of said town. The procedure for a referendum on the use of fluoride in a town that is part of public water system serving more than one municipality shall be the procedure in RSA 485:14-a.

4 Public Water Supplies; Referendum on the use of Fluoride. RSA 44:16 is repealed and reenacted to read as follows:

44:16 Public Water Supplies. Upon the written application of 10 percent of the registered voters in any city, presented to the city clerk prior to the municipal election, the city clerk shall insert on the ballot to be used at said election the following question: "Shall fluoride be used in the public water system?" Beside this question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves one municipality at said election does not approve the use of fluoride in the public water system for said city, no fluoride shall be introduced into the public water system. If fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the city shall, by majority vote, approve the use of such fluoride. After such popular referendum, the city clerk shall not insert the aforementioned question relative to the use of fluoride in the public water system on the ballot to be used at the municipal election for a minimum period of 3 years from the date of the last popular referendum, and only upon written application at that time of not less than 10 percent of the registered voters of said city. The procedure for a referendum on the use of fluoride in a city that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

5 Public Water; Referendum on the use of Fluoride. RSA 52:23 is repealed and reenacted to read as follows:

52:23 Public Water. Upon the written application of 10 percent of the registered voters in any village water district, presented to the commissioners or one of them at least 15 days before the day prescribed for an annual meeting of the district, the commissioners shall insert in their warrant for such meeting an article relative to the use of fluoride in the water system for said district, and the district clerk shall prepare a ballot for said meeting with the following question: "Shall fluoride be used in the district water system?" Beside the question shall be printed the word "yes" and the word "no" with the proper boxes for the voter to indicate his or her choice. If a majority of the registered voters in a water system that serves only one municipality does not approve the use of fluoride in the district water system, no fluoride shall be introduced into the district water system; or if fluoride has, prior to said vote, been so introduced, such use shall be discontinued until such time as the registered voters of the district shall, by majority vote, approve of the use of fluoride. After such popular referendum, the commissioners shall not insert an article relative to the use of fluoride in the district water system in the warrant nor shall the district clerk prepare such a ballot for a minimum period of 3 years from the date of the last popular referendum of the district and only upon written application at that time of not less than 10 percent of the registered voters of said district. The procedure for a referendum on the use of fluoride in a village district that is part of a water system serving more than one municipality shall be the procedure in RSA 485:14-a.

6 Applicability. Any public water system serving more than one municipality which introduced fluoride into the water supply prior to July 1, 2004 may continue the use of fluoride until a referendum under RSA 485:14-a has taken place.

7 Effective Date. This act shall take effect July 1, 2004.

#### AMENDED ANALYSIS

This bill:

I. Establishes a procedure for voting on the introduction of fluoride into public water supplies that serve multiple municipalities.

II. Permits the introduction of fluoride into public water supplies that serve multiple municipalities if the voters of the municipalities vote to approve its use.

III. Provides that public water supplies that serve multiple municipalities and that are currently using fluoride may continue to do so until all of the municipalities have the opportunity to vote on the use of fluoride.

Reps. Osborne and Schmidt spoke against.

Rep. Hagan spoke in favor and yielded to questions.

On a division vote, 97 members having voted in the affirmative and 238 in the negative, the minority amendment (1445h) failed.

Majority committee report adopted and ordered to third reading.

Rep. James Craig declared a conflict of interest and did not participate.

**SB 533**, relative to licensing requirements for certain recreation and child care programs. **OUGHT TO PASS WITH AMENDMENT**

Rep. Dudley D. Dumaine for Municipal and County Government: This bill clarifies that municipal recreation programs and similar programs offered by the Boys and Girls Club, Girls Inc., YMCA, YWCA, and any school or church group shall continue to be exempt from the childcare licensing requirements under RSA 170-E. The programs offered by these entities provide recreation and youth development opportunities that fill a tremendous community need and are valued by the children and families they serve. Many municipal recreation programs throughout the state are having participants sign in and out when attending the programs to keep track of the children. A problem arises when the Department of Health and Human Services guidelines called "School Age Program Exemptions" kick in. These guidelines for employees set up parameters to show the difference between a recreational or a childcare program. A municipal program instituted a procedure for keeping track of the children that were at the facilities by signing in and out, which the committee endorsed. This procedure did not restrict the child's ability to come and go, but made the municipal recreational program possibly subject to all childcare licensing requirements. Implementation of childcare rules would force many municipal programs and the clubs that are currently exempt to shut down and greatly limit access for all children to those recreational activities. Testimony was received suggesting a study committee be formed to define "recreation programs". This subject was studied in depth in SB 580, Chapter 400:1, and Laws of 1994. The definition was so specific in nature as not to include part-time summer camps or recreational programs. The committee felt that another study committee on this subject was not necessary at this time. Vote 16-0.

**Amendment (1219h)**

Amend RSA 170-E:3, I(g) as inserted by section 1 of the bill by replacing it with the following:

(g) Any recreation program ~~of the Boys Club, Girls Club~~ *offered by the Boys and Girls Club*; Girls, Inc.; YMCA; YWCA; and any school or church group.

Adopted.

Report adopted and ordered to third reading.

**BILLS REMOVED FROM CONSENT CALENDAR MAY 5, 2004**

**SB 478-FN**, relative to penalties for DWI offenses. **OUGHT TO PASS WITH AMENDMENT**

Rep. John E. Tholl, Jr. for Criminal Justice and Public Safety: The bill as it came from the Senate contained several increases in penalties for driving while intoxicated and added the requirement of attendance to the State Operated Multiple Offender Program for Aggravated DWI. The committee amendment, while maintaining the increased penalties in many areas, also provides for the ability of the courts to order treatment and supervision while permitting the deferment and/or suspension of jail time based upon satisfactory completion of the ordered treatment and any follow-up treatment/counseling required. It also allows a person who has been sentenced to the Multiple Offender Program to attend an approved private program should a slot in the Multiple Offender Program not be available. First offense DWI has been increased from a violation to a Class B Misdemeanor, which allows only for an increased fine without the possibility of jail with the provision that the charge can be reduced to a violation upon petition to the court after a period of 1 year thus removing a criminal charge from the person's record. The primary direction of the committee amendment is to utilize the carrot and a stick approach with higher penalties imposed if participation in treatment and counseling isn't undertaken and completed. Vote 15-2.

**Amendment (1370h)**

Amend the bill by replacing all after the enacting clause with the following:

1 Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, I to read as follows:

I. Except as otherwise provided in this section:

(a) Any person who is convicted of any offense under RSA 215-A:11, I or RSA 265:82 shall be:

(1) Guilty of a ~~[violation]~~ **class B misdemeanor**;

(2) Fined not less than ~~[\$350]~~ **\$500**;

(3) Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services; ~~and]~~

(4) The person's driver's license or privilege to drive shall be revoked for not less than 9 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. The court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) within 45 days after conviction, or as soon thereafter as any extenuating circumstances approved by the department of health and human services allow;

*(5) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate; and*

*(6) The court in which the person was convicted may reduce the conviction to a violation upon a motion filed by either party at least one year after the date of the conviction. In deciding whether to reduce the conviction to a violation, the court may consider the person's subsequent driving record, any evidence of drug or alcohol treatment, the hardship that having a criminal record may cause for the person, and any other factors that the court deems relevant.*

(b) Any person who is convicted of any aggravated DWI offense under RSA 215-A:11, II, or RSA 265:82-a, except as provided in subparagraph (c), shall be:

(1) Guilty of a **class A misdemeanor**;

(2) Fined not less than \$500;

(3) ~~[Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction; the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program or an equivalent 7-day residential intervention program approved by the commissioner of health and human services; and]~~ **Sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall be in no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order;**

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any circumstances approved by the department of health of human services allow;

(5) *The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other test as the court may deem appropriate; and*

(6) *A person who leaves the relevant driver intervention program required by subparagraph II(a)(3) before completion and fails to return and complete it as soon as extenuation circumstances approved by the department of health and human services allow or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 14 days in the county correctional facility.*

(c) Any person who is convicted of aggravated DWI under RSA 215-A:11, II(a)(1) or II(b)(1), or RSA 265:82-a, I(b) or II(b), shall be:

(1) Guilty of a class B felony;

(2) Fined not less than \$1,000;

(3) *[Required to furnish proof of successful completion of an impaired driver intervention program prior to the restoration of the person's driver's license or privilege to drive, provided that, if the person has previously completed, or been required by a court or motor vehicle bureau to complete, an impaired driver intervention program or any similar program in any jurisdiction, the person shall be required to furnish proof of successful completion of the multiple DWI offender intervention detention center program] Sentenced to a mandatory sentence of not less than 21 consecutive days of which 14 consecutive 24-hour periods shall be served in the county correctional facility followed by 7 consecutive 24-hour periods served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services, and the remainder of the sentence may be deferred at the court's discretion. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence; and*

(4) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Except for good cause found by the court and noted in writing, the court may suspend up to 6 months of this sentence, provided that the person has entered into the relevant driver intervention program required by subparagraph (3) ~~[within 45 days after conviction, or]~~ as soon thereafter as any extenuating circumstances approved by the department of health and human services allow.

2 Penalties for Intoxication or Under Influence of Drug Offenses. Amend RSA 265:82-b, II(a)-(b) to read as follows:

(a) For a second offense:

(1) The person shall be guilty of a *class A* misdemeanor.

(2) The person shall be fined not less than \$500.

(3) *(A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than [40] 37 consecutive days of which [3] 30 consecutive 24-hour periods shall be served in the county correctional facility [and] followed by 7 consecutive 24-hour periods [shall] to be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b within 21 days after conviction, except that in circumstances where the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned [the first available space] to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required [7] 30 consecutive 24-hour periods [at the center] or such other time as the court may order.*

*(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 10 consecutive days of which 3 consecutive 24-hour periods shall be served in the county correctional facility and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, which sentence shall begin no later than 21 days after conviction. In the event that the state-operated 7-day multiple DWI offender intervention detention center has no available space the person shall be assigned to an equivalent 7-day residential intervention program approved by the commissioner of health and human services. The person shall begin following any treatment recommendations arising out of the final evaluation given to the person at the multiple DWI offender intervention detention center or equivalent program within 60 days after the person has completed serving the required 7 consecutive 24-hour periods or such other time as the court may order.*

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years.

(5) The person shall pay a fee to the commissioner, as established under RSA 126-A:43, for the costs of the state-operated, 7-day multiple DWI offender intervention detention center program prior to license restoration. *If the person attends an approved equivalent 7-day residential intervention program, the fees and costs shall be paid to the program.*

(6) A person who leaves the program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, or who fails to begin following treatment recommendations within the time required by subparagraph II(a)(3) shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility.

*(7) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling, or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.*

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until the provisions of RSA 263:65-a and all other requirements under law are met.

~~(2) [If the person has completed the state-operated 7-day multiple DWI offender intervention detention center program as required under subparagraph (a)(3) upon conviction for a prior offense;] The person shall be sentenced to a mandatory sentence of not less than [30] 180 consecutive days of which [23] 30 consecutive 24-hour periods shall be served in the county correctional facility [and 7 consecutive 24-hour periods shall be served at the state-operated 7-day multiple DWI offender intervention detention center established under RSA 172-B:2-b, and] following which the person shall complete at the person's own expense a residential treatment program of at least 28 days duration or an intensive course of substance abuse treatment based upon a formal evaluation by a licensed alcohol and other drug counselor and approved by the department of health and human services before the driver's license may be restored. The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any ordered treatment, suspend any remaining deferred sentence. Failure to successfully complete any court-ordered intervention program or recommended treatment shall result in the imposition of any remaining deferred sentence.~~

~~(3) [A person who leaves the multiple DWI offender program before completion and fails to return and complete it as soon thereafter as extenuating circumstances approved by the department of health and human services allow, shall be in contempt of court and shall serve a minimum of 30 days in the county correctional facility] The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved~~



*by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.*

3 Effective Date. This act shall take effect January 1, 2005.

Adopted.

Reps. Bruno and Cady spoke against.

Rep. Craig spoke against and yielded to questions.

Reps. Tholl and Welch spoke in favor.

### **MOTION TO LAY ON THE TABLE**

Rep. Michael Harrington moved that **SB 478-FN**, relative to penalties for DWI offenses, be laid on the table.

Rep. Welch requested a roll call; sufficiently seconded.

The question being to lay SB 478-FN on the table.

### **YEAS 114 NAYS 231**

#### **YEAS 114 BELKNAP**

Dewhirst, Glenn                      Wendelboe, Fran

#### **CARROLL**

Mock, Henry                      Philbrick, Donald

#### **CHESHIRE**

Dexter, Judson	Eaton, Daniel	Liebl, George	Parkhurst, Henry
Pratt, John	Robertson, Timothy	Smith, Edwin	Tilton, Anna
Webber, Amy			

#### **COOS**

Brady, Mark                      Guay, Lawrence

#### **GRAFTON**

Bleyler, Ruth	Dorsett, Andrew	Dudley, Terri	Ham, Bonnie
Hammond, Lee	Ingbretson, Paul		

#### **HILLSBOROUGH**

Allan, Nelson	Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael
Bergeron, Jean-Guy	Brassard, Paul	Bruno, Pierre	Buckley, Raymond
Cernota, Albert	Christensen, D L Chris	Clayton, William	Clemons, Jane
Craig, James	Elliott, Larry	Fields, Dennis	Gibson, John
Gonzalez, Carlos	Hagan, Barbara	Hall, Charles	Hawkins, Ken
Haytayan, Harry Jr	Holden, Randolph	Hunter, Bruce	Johnson, Lionel
LaFlamme, Paul	Lawrence, James	Leach, Edward	Luebker, Bernard
Martin, Mary Ellen	Messier, Irene	Mooney, Maureen	Ober, Russell III
Palangas, Eric	Pepino, Leo	Scanlon, Michael	Schulze, Joan
Slocum, Lee	Souza, Kathleen	Sweeney, Cynthia	Vaillancourt, Steve

#### **MERRIMACK**

Bouchard, Candace	Davis, Frank	Dunne, Christopher	French, Barbara
Hamm, Christine	Hess, David	Marple, Richard	Maxfield, Roy
McCormick, Tom	Soltani, Tony		

#### **ROCKINGHAM**

Blanchard, MaryAnn	Cady, Harriet	Camm, Kevin	Clark, Vivian
Cooney, Richard	DiFruscia, Anthony	Fesh, Bob	Francoeur, Sheila
Hutchinson, Karen	Ingram, Russell	Johnson, Robert	Johnson, Rogers
Langley, Jane	McCann, Richard	McEachern, Paul	McKinney, Betsy
McMahon, Charles	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Smith, Donald	Splaine, James	Weyler, Kenneth
Zolla, William			

**STRAFFORD**

Bickford, David  
Heon, Richard  
Kaen, Naida  
Vachon, Dennis

Campbell, W Packy  
Hofemann, Roland  
Keans, Sandra  
Wall, Janet

Cataldo, Sam  
Hollinger, Jeffrey  
Rollo, Deanna  
Woods, Phyllis

Harrington, Michael  
Johnson, Nancy  
Twombly, James

**SULLIVAN**

Donovan, Thomas

Ferland, Brenda

Phinizy, James

**NAYS 231**

**BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Laflam, Robert  
Russell, David

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Holbrook, Robert  
Rice, Thomas

**CARROLL**

Babson, David Jr  
Kenney, Bettie  
Patten, Betsey

Brown, Carolyn  
McConkey, Mark  
Stevens, Stanley

Derby, Mark  
Morrow, Harry

Dickinson, Howard  
Olimpio, J Lisbeth

**CHESHIRE**

Allen, Peter  
Hunt, John  
Mitchell, McKim

Dunn, James  
Laurent, John  
Pratt, Irene

Espiefs, Peter  
Manning, Joseph  
Richardson, Barbara

Fish, Douglas  
Meader, David  
Weed, Charles

**COOS**

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

Poulin, Richard  
Tholl, John Jr

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Eaton, Stephanie  
Naro, Debra  
Solomon, Peter

Alger, John  
Cooney, Mary  
Gilman, G Michael  
Nordgren, Sharon  
Sorg, Gregory

Almy, Susan  
Densmore, Edward  
Giuda, Robert  
Scovner, Nancy  
Williams, Burton

Barker, Robert  
Diamond, Estelle  
Maybeck, Margie  
Sokol, Hilda

**HILLSBOROUGH**

Adams, Jarvis  
Batula, Peter  
Carlson, Donald  
Christiansen, Lars  
Crane, Elenore Casey  
Drisko, Richard  
Gargas, Carolyn  
Greenberg, Gary  
Harrington, Paul  
Jasper, Shawn  
Kurk, Neal  
Lessard, Rudy  
Michon, Stephen  
Pappas, Christopher  
Reeves, Sandra  
Spiess, Paul  
Tate, Joan

Balcom, John  
Beaton, William  
Carter, Jeffrey  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Gorman, Mary  
Haley, Robert  
Hinkle, Peyton  
Jean, Claudette  
L'Heureux, Robert  
Malloy, Chris  
Moran, Edward  
Pappas, Marc  
Ross, Lawrence  
Stepanek, Stephen  
Wheeler, James

Baroody, Benjamin  
Brundige, Robert  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Fletcher, Richard  
Goyette, Peter Jr  
Hallyburton, Margaret  
Infantine, William  
Katsiantonis, Thomas  
Laflamme, Charles  
McHugh, Claire  
Mosher, William  
Pilote, Maurice  
Rowe, Robert  
Sullivan, Francis  
Wheeler, Robert

Barry, J Gail  
Buhlman, David  
Chabot, Robert  
Coughlin, Pamela  
Dokmo, Cynthia  
Ford, Nancy  
Graham, John  
Hansen, Ryan  
Irwin, Anne-Marie  
Kopka, Angeline  
Lasky, Bette  
Mercer, Robert  
O'Brien, Lori  
Price, Pamela  
Shaw, Barbara  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
Currier, David

Blanchard, Elizabeth  
DeStefano, Stephen

Brueggemann, Donald  
Field, William

Clarke, Claire  
Foley, Albert

Fraser, Leo Jr  
Kennedy, Richard  
Lockwood, Priscilla  
Osborne, Jessie  
Rush, Deanna

Hager, Elizabeth  
L'Heureux, Stephen  
MacKay, James  
Owen, Derek  
Seldin, Gloria

Jacobson, Alf  
Langer, Ray  
Nutter, Edward  
Potter, Frances  
Wallner, Mary Jane

Kenison, Leon  
Leber, William  
Oliver, James  
Rodd, Beth

## ROCKINGHAM

Abbott, Dennis  
Bishop, Franklin  
Coes, Betsy  
Gilbert, Karl  
Griffin, Mary  
Hughes, Daniel  
Kelley, Jane  
Major, Norman  
Noyes, Richard  
Roessner, Kurt  
Stone, Joseph  
Weare, E Albert

Allen, Mary  
Bridle, Russell  
Dodge, Robert  
Gillick, Thomas  
Hamel, Albert  
Introne, Robert  
Kobel, Rudolph  
Manning, John  
Packard, Sherman  
Ruffner, Walter  
Tufts, J Arthur  
Welch, David

Belanger, Ronald  
Carson, Sharon  
Dowd, John  
Gleason, John  
Headd, James  
Katsakiores, George  
Langone, John  
Morris, Richard  
Pantelakos, Laura  
Scamman, Stella  
Vallone, Matthew  
Weldy, Norman Jr

Bicknell, Elbert  
Casey, Kimberley  
Flanders, John Sr  
Gould, Kenneth  
Holland, James Jr  
Katsakiores, Phyllis  
Letourneau, Robert  
Norelli, Terie  
Robertson, Carl  
Shultis, Elizabeth  
Waterhouse, Kevin  
Wiley, Robert

## STRAFFORD

Albert, Russell  
Creteau, Irene  
Knowles, William  
Rous, Emma  
Spang, Judith

Bemis, Alan  
Dunlap, Patricia  
Miller, Joseph  
Schmidt, Peter  
Taylor, Kathleen

Berube, Roger  
Easson, Timothy  
Musler, George  
Smith, Marjorie

Brown, Julie  
Grassie, Anne  
Pelletier, Arthur  
Snyder, Clair

## SULLIVAN

Allison, David  
Franklin, Peter

Burling, Peter  
Jones, Constance

Cloutier, John  
Leone, Richard

Flint, Gordon Sr  
Rodeschin, Beverly

and the motion to lay SB 478-FN on the table failed.

The question now being adoption of the committee report.

Rep. Bemis requested a roll call: sufficiently seconded.

The question being adoption of the committee report.

**YEAS 199 NAYS 146**

## YEAS 199

## BELKNAP

Ahern, Omer Jr  
Flanders, Donald  
Rice, Thomas

Allen, Janet  
Holbrook, Robert  
Russell, David

Bartlett, Gordon  
Laflam, Robert  
Thomas, John

Fitzgerald, James  
Nedeau, Stephen  
Whalley, Michael

## CARROLL

Brown, Carolyn  
McConkey, Mark

Derby, Mark  
Merrow, Harry

Dickinson, Howard  
Patten, Betsey

Kenney, Bettie  
Stevens, Stanley

## CHESHIRE

Allen, Peter  
Laurent, John  
Smith, Edwin

Dunn, James  
Manning, Joseph  
Webber, Amy

Fish, Douglas  
Pratt, Irene  
Weed, Charles

Hunt, John  
Richardson, Barbara

## COOS

King, Frederick  
Tholl, John Jr

Mears, Edgar

Pratt, Leighton

Stohl, Eric

## GRAFTON

Akins, Ralph  
Cooney, Mary  
Hammond, Lee  
Sokol, Hilda

Alger, John  
Densmore, Edward  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Diamond, Estelle  
Nordgren, Sharon  
Sorg, Gregory

Barker, Robert  
Gilman, G Michael  
Scovner, Nancy  
Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis  
 Beaton, William  
 Carter, Jeffrey  
 Cote, David  
 Desmarais, Vivian  
 Fields, Dennis  
 Goyette, Peter Jr  
 Hallyburton, Margaret  
 Hinkle, Peyton  
 Jean, Claudette  
 McHugh, Claire  
 O'Brien, Lori  
 Reeves, Sandra  
 Sweeney, Cynthia

Allan, Nelson  
 Brassard, Paul  
 Carter, Mark  
 Cote, Peter  
 Dionne, Kimberley  
 Fletcher, Richard  
 Graham, John  
 Hansen, Ryan  
 Infantine, William  
 Kurk, Neal  
 Mercer, Robert  
 Pepino, Leo  
 Ross, Lawrence  
 Tahir, Saghir

Balcom, John  
 Brundige, Robert  
 Chabot, Robert  
 Coughlin, Pamela  
 Dokmo, Cynthia  
 Ford, Nancy  
 Greenberg, Gary  
 Harrington, Paul  
 Irwin, Anne-Marie  
 L'Heureux, Robert  
 Michon, Stephen  
 Pilotte, Maurice  
 Rowe, Robert  
 Wheeler, Robert

Batula, Peter  
 Buckley, Raymond  
 Christensen, D L Chris  
 Crane, Elenore Casey  
 Drisko, Richard  
 Gargasz, Carolyn  
 Hall, Charles  
 Haytayan, Harry Jr  
 Jasper, Shawn  
 Malloy, Chris  
 Mosher, William  
 Price, Pamela  
 Stepanek, Stephen

**MERRIMACK**

Anderson, Eric  
 Fraser, Leo Jr  
 Jacobson, Alf  
 Langer, Ray  
 Oliver, James  
 Rodd, Beth

Blanchard, Elizabeth  
 Hager, Elizabeth  
 Kenison, Leon  
 Leber, William  
 Osborne, Jessie  
 Rush, Deanna

Brueggemann, Donald  
 Hamm, Christine  
 Kennedy, Richard  
 Lockwood, Priscilla  
 Owen, Derek  
 Seldin, Gloria

Currier, David  
 Hess, David  
 L'Heureux, Stephen  
 MacKay, James  
 Potter, Frances  
 Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis  
 Carson, Sharon  
 Dodge, Robert  
 Gillick, Thomas  
 Hamel, Albert  
 Johnson, Robert  
 Kobel, Rudolph  
 Manning, John  
 Noyes, Richard  
 Scamman, Stella  
 Weare, E Albert

Allen, Mary  
 Casey, Kimberley  
 Dowd, John  
 Gleason, John  
 Headd, James  
 Johnson, Rogers  
 Langone, John  
 McKinney, Betsy  
 Packard, Sherman  
 Stone, Joseph  
 Welch, David

Bicknell, Elbert  
 Clark, Vivian  
 Flanders, John Sr  
 Gould, Kenneth  
 Holland, James Jr  
 Katsakiores, George  
 Letourneau, Robert  
 Morris, Richard  
 Pantelakos, Laura  
 Tufts, J Arthur  
 Weldy, Norman Jr

Bishop, Franklin  
 Coes, Betsy  
 Gilbert, Karl  
 Griffin, Mary  
 Introne, Robert  
 Katsakiores, Phyllis  
 Major, Norman  
 Norelli, Terie  
 Ruffner, Walter  
 Waterhouse, Kevin  
 Wiley, Robert

**STRAFFORD**

Albert, Russell  
 Creteau, Irene  
 Pelletier, Arthur  
 Smith, Marjorie

Bemis, Alan  
 Dunlap, Patricia  
 Rollo, Deanna  
 Snyder, Clair

Berube, Roger  
 Knowles, William  
 Rous, Emma  
 Taylor, Kathleen

Brown, Julie  
 Musler, George  
 Schmidt, Peter  
 Wall, Janet

**SULLIVAN**

Allison, David  
 Franklin, Peter

Burling, Peter  
 Jones, Constance

Cloutier, John  
 Leone, Richard

Flint, Gordon Sr  
 Rodeschin, Beverly

**NAYS 146****BELKNAP**

Boyce, Laurie  
 Wendelboe, Fran

Clark, Charles

Dewhirst, Glenn

Pilliod, James

**CARROLL**

Babson, David Jr

Mock, Henry

Olimpio, J Lisbeth

Philbrick, Donald

**CHESHIRE**

Dexter, Judson  
 Meader, David  
 Robertson, Timothy

Eaton, Daniel  
 Mitchell, McKim  
 Tilton, Anna

Espiefs, Peter  
 Parkhurst, Henry

Liebl, George  
 Pratt, John

**COOS**

Brady, Mark	Guay, Lawrence	Poulin, Richard	Theberge, Robert
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**GRAFTON**

Benn, Bernard	Bleyler, Ruth	Dorsett, Andrew	Dudley, Terri
Eaton, Stephanie	Giuda, Robert	Ham, Bonnie	Ingbretson, Paul
Maybeck, Margie			

**HILLSBOROUGH**

Arnold, Thomas Jr	Artz, Lawrence	Balboni, Michael	Baroody, Benjamin
Barry, J Gail	Bergeron, Jean-Guy	Bruno, Pierre	Buhlman, David
Carlson, Donald	Cernota, Albert	Christiansen, Lars	Clayton, William
Clemons, Jane	Craig, James	Elliott, Larry	Emerton, Larry
Gibson, John	Gonzalez, Carlos	Gorman, Mary	Hagan, Barbara
Haley, Robert	Hawkins, Ken	Holden, Randolph	Hunter, Bruce
Johnson, Lionel	Katsiantonis, Thomas	Kopka, Angeline	Lafamme, Charles
LaFlamme, Paul	Lasky, Bette	Lawrence, James	Leach, Edward
Lessard, Rudy	Luebker, Bernard	Martin, Mary Ellen	Messier, Irene
Mooney, Maureen	Moran, Edward	Ober, Russell III	Palangas, Eric
Pappas, Christopher	Pappas, Marc	Scanlon, Michael	Schulze, Joan
Shaw, Barbara	Slocum, Lee	Souza, Kathleen	Spies, Paul
Sullivan, Francis	Tate, Joan	Vaillancourt, Steve	Wheeler, James

**MERRIMACK**

Bouchard, Candace	Clarke, Claire	Davis, Frank	DeStefano, Stephen
Dunne, Christopher	Field, William	Foley, Albert	French, Barbara
Marple, Richard	Maxfield, Roy	McCormick, Tom	Nutter, Edward
Soltani, Tony			

**ROCKINGHAM**

Belanger, Ronald	Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet
Camm, Kevin	Cooney, Richard	DiFruscia, Anthony	Fesh, Bob
Francoeur, Sheila	Hughes, Daniel	Hutchinson, Karen	Ingram, Russell
Kelley, Jane	Langley, Jane	McCann, Richard	McEachern, Paul
McMahon, Charles	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Robertson, Carl	Roessner, Kurt	Shultis, Elizabeth
Smith, Donald	Splaine, James	Vallone, Matthew	Weyler, Kenneth
Zolla, William			

**STRAFFORD**

Bickford, David	Campbell, W Packy	Cataldo, Sam	Easson, Timothy
Grassie, Anne	Harrington, Michael	Heon, Richard	Hofemann, Roland
Hollinger, Jeffrey	Johnson, Nancy	Kaen, Naida	Keans, Sandra
Miller, Joseph	Spang, Judith	Twombly, James	Vachon, Dennis
Woods, Phyllis			

**SULLIVAN**

Donovan, Thomas	Ferland, Brenda	Phinizy, James
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and the committee report was adopted.  
Ordered to third reading.

The House recessed at 12:40 p.m.

**RECESS****(Speaker Chandler in the Chair)**

The House reconvened at 1:45 p.m.

**SENATE MESSAGE****REQUESTS CONCURRENCE WITH AMENDMENT**

**HB 1299**, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (Amendment printed SJ 04/22/04)

Rep. Patten moved that the House concur and spoke in favor.

Adopted.

**BILLS REMOVED FROM CONSENT CALENDAR MAY 5, 2004 (CONT'D.)**

**SB 153**, adopting the nurse licensure compact. **OUGHT TO PASS WITH AMENDMENT**

Rep. Judson K. Dexter for Executive Departments and Administration: This is the second time this committee has dealt with this legislation. Two years ago, the committee and the New Hampshire Board of Nursing felt that it was unclear as to who had the authority to license nurses in New Hampshire, and therefore, could negatively impact the quality of nursing care for the people of New Hampshire. Additionally, the licensing fee structure would penalize New Hampshire nurses that did not want to be included in the compact. SB 153, with amendment addresses those concerns and now has the unanimous support of the New Hampshire Board of Nursing. The amended language continues to grant total autonomy to the New Hampshire Board of Nursing with regard to licensing. And while the Board of Nursing made it clear that the fees for licensing are going to increase independent of this legislation, the language in the bill allows the board to assess an additional licensing fee to those nurses who want an interstate nurse's license under the compact and, therefore, not penalize nurses who want only a New Hampshire license. Vote 13-6.

**Amendment (1355h)**

Amend RSA 326-B:4-a. XVIII as inserted by section 2 of the bill by replacing it with the following:

XVIII. The implementation and coordination of the nurse licensure compact adopted in RSA 326-B:34. The board shall use model rules developed for the nurse licensure compact by the National Council of State Boards of Nursing as the basis for adopting rules which shall be modified as necessary to comply with state statutes.

Amend RSA 326-B:8-a, IV and V as inserted by section 6 of the bill by replacing it with the following:

IV. A registered nurse or a licensed practical nurse, holding a valid license from a remote state, shall register and shall provide such information as the board may require prior to the time when that individual is physically present and practicing in New Hampshire. The board shall require a criminal background check as part of the registration requirement.

V. A registered nurse or a licensed practical nurse, possessing a valid license from a remote state, shall apply for nurse licensure in New Hampshire as provided for in this chapter when that nurse or licensed practical nurse changes his or her residency to New Hampshire. The nurse or licensed practical nurse may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in New Hampshire for a period not to exceed 30 days. The former home state license shall no longer be valid upon the issuance of a New Hampshire license.

Amend the bill by replacing section 7 with the following:

7 Effective Date. This act shall take effect July 1, 2005.

Adopted.

Report adopted and ordered to third reading.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting. **OUGHT TO PASS WITH AMENDMENT**

Rep. Nancy K. Johnson for Municipal and County Government: The process for adopting a default budget that was implemented for SB 2 towns/school districts has come under attack for a number of years. The committee has tried to find various solutions to the "one size fits all" concept that was envisioned in the original passage of RSA 40:13. The manipulation of the bottom line figure for the default budget is evident. So the committee has adopted a process, which needs to be implemented by a vote of the SB 2 towns/school district at the local level that will make the default budget math transparent by the Department of Revenue Administration and will mirror what the current budget forms required for an operating budget. This bill clarifies the default budget and requires the development of the default budget to be clearly demonstrated by the governing

body, including identifying one-time expenditures on this new form. In addition a new option is made available in official ballot voting municipalities by the legislative body, to authorize the budget committee, if there is one, to develop the default budget. Vote 14-0.

### Amendment (1308h)

Amend the bill by replacing all after the enacting clause with the following:

1 Use of Official Ballot; Operating Budget. Amend RSA 40:13, IX-XI to read as follows:

IX.(a) "Operating budget" as used in this subdivision means "budget," as defined in RSA 32:3, III, exclusive of "special warrant articles," as defined in RSA 32:3, VI, and exclusive of other appropriations voted separately.

(b) *"Default budget" as used in this subdivision means the amount of the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, and reduced by one-time expenditures contained in the operating budget. For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body, unless the provisions of RSA 40:14-b are adopted, of the local political subdivision.*

X. If no operating budget article is adopted, the local political subdivision either shall be deemed to have approved ~~[the same appropriations as contained in the operating budget authorized for the previous year, reduced and increased, as the case may be, by debt service, contracts, and other obligations previously incurred or mandated by law, or reduced by one-time expenditures contained in the operating budget;]~~ *the default budget* or the governing body may hold a special meeting pursuant to paragraph XVI to take up the issue of a revised operating budget only; provided that RSA 31:5 and RSA 197:3 shall not apply to such a special meeting. If no operating budget article is adopted the estimated revenues shall nevertheless be deemed to have been approved. ~~[For the purposes of this paragraph, one-time expenditures shall be appropriations not likely to recur in the succeeding budget, as determined by the governing body of the local political subdivision.]~~

XI. The ~~[amount of the previous year's operating budget, as adjusted pursuant to paragraph X;]~~ *default budget* shall be disclosed ~~[to the voters at the first session]~~ *at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall demonstrate how the default budget amount was determined by showing the appropriations contained in the operating budget authorized for the previous year and the reductions and increases and one-time expenditures as defined under paragraph IX(b) on a default budget form created by the department of revenue administration.* This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, *unless the provisions of RSA 40:14-b are adopted*, acting on relevant new information at any time before the ballots are printed, *provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.* The wording of the second session ballot question concerning the operating budget shall be as follows:

"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$\_\_\_\_\_? Should this article be defeated, the ~~[operating]~~ *default* budget shall be \$\_\_\_\_\_, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

3 New Section; Default Budget Determined by Budget Committee. Amend RSA 40 by inserting after section 14-a the following new section:

40:14-b Default Budget Determined by Budget Committee.

I. A local political subdivision which has adopted the official ballot referenda form of meeting pursuant to RSA 40:14 and has also adopted a municipal budget committee pursuant to RSA 32:14 may delegate the determination of the default budget to the budget committee instead of the governing body.

II. A vote under this section may be taken simultaneously with the adoption of RSA 40:13 or any time after the adoption of RSA 40:13.

(a) If the vote is taken simultaneously with the adoption of RSA 40:13, a separate question shall be placed on the warrant for the annual meeting following the procedures in RSA 40:14.

(b) If the vote is taken after the adoption of RSA 40:13, the question shall be placed on the warrant of the annual meeting by the governing body or by petition under the procedures set out in RSA 39:3 or RSA 197:6. A public hearing on the question shall be held by the local governing body following the procedures in RSA 40:14, IV. A vote to adopt the question shall conform with RSA 40:14, VI.

(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?"

III. The provisions of this section may be rescinded following the procedures set out in RSA 40:14, VII, except that the wording of the question shall be: "Shall we rescind the provisions of RSA 40:14-b, as adopted by the (local political subdivision) on (date of adoption), so that the default budget will be determined by the governing body instead of the budget committee?"

4 Budget Committee; Duties. Amend RSA 32:16, I to read as follows:

I. To prepare the budget as provided in RSA 32:5, *and if authorized under RSA 40:14-b, a default budget under RSA 40:13, IX(b)* for submission to each annual or special meeting of the voters of the municipality. and, if the municipality is a town, the budgets of any school district or village district wholly within the town, unless the warrant for such meeting does not propose any appropriation.

5 Effective Date. This act shall take effect 60 days after its passage.

Adopted.

Rep. Patten offered a floor amendment (1472h).

### Floor Amendment (1472h)

Amend the bill by replacing section 2 with the following:

2 Municipal Budget Law; Budget Preparation. Amend RSA 32:5, VII to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) *The governing body in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.*

Rep. Patten spoke in favor.

Floor amendment (1472h) adopted.

Report adopted and ordered to third reading.

### SPECIAL ORDER

**SB 302-FN-L**, making technical corrections to the education funding formula. **REFER FOR INTERIM STUDY**

Rep. Joseph E. Stone for Finance: This bill represents the work of the study committee on education funding established under HB 608 of last session. It provides for a one-year transition period in FY 05 in order to grant some relief to communities whose current state education grants are scheduled to decrease significantly under HB 608. Because the study committee did not increase



education funding above the budgeted \$428 million, the bill shifts money around. Using a reverse Robin Hood approach, the bill reduces the increases given to property poor communities and transfers them to middle tier communities. No property poor community receives less in FY 05 than it did in FY 04, and no middle tier community receives less than 74% of its FY 04 grant. Finance is working on a different approach to education funding, but needs more time, especially in light of recent gubernatorial statements. Its unanimous recommendation for interim study is designed to provide that time and allow a floor amendment to be considered when the bill is before the House next week. Vote 22-0.

Rep. Kurk spoke against.

Report failed.

Rep. Kurk moved Ought to Pass with Amendment and offered a floor amendment (1494h)

### Floor Amendment (1494h)

Amend the title of the bill by replacing it with the following:

AN ACT relative to education funding and relative to the tobacco tax.

Amend the bill by replacing all after the enacting clause with the following:

1 Statewide Enhanced Education Tax. Amend RSA 76:3 to read as follows:

76:3 Statewide Enhanced Education Tax. Beginning July 1, 2005, and every fiscal year thereafter, the uniform statewide enhanced education tax rate shall be set at a rate which shall raise \$363,677,547 based on the most recent available state equalized valuation ~~[and such]~~ *as released in the year in which the rate is calculated. Such* rate shall be imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F. The commissioner of the department of revenue administration shall set the rate ~~[which shall be effective for the fiscal year in which the calculation is made]~~ *pursuant to RSA 76:8 and RSA 76:9.*

2 Assessment; Commissioner's Warrant; Commissioner's Report. Amend RSA 76:8, I to read as follows:

I. The commissioner of revenue administration shall annually calculate the proportion of *uniform* statewide enhanced education tax to be raised by each municipality by multiplying the uniform *statewide enhanced* education ~~[property]~~ tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII ~~[for the preceding year, except]~~ *as released in the year in which the rate is calculated, excluding property taxable subject to [property taxable under]* RSA 82 or RSA 83-F.

3 School Money; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute ~~[adequate]~~ education grants to municipalities' school districts pursuant to RSA 198:42, and to provide ~~[statewide enhanced education property tax hardship relief under RSA 198:55]~~ *low and moderate income homeowners property tax relief under RSA 198:56-198:61.* The state treasurer shall deposit into this fund immediately upon receipt:

4 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, IX to read as follows:

IX. "Transportation cost" means the cost of transporting pupils in grades kindergarten through grade 8, *excluding educationally disabled pupils*, to and from school as reported by school districts on the DOE-25 form.

5 State Aid for Educational Adequacy; Definitions. Amend RSA 198:38, XI to read as follows:

XI. "Calculated rate" means the total revenue raised statewide by the local education tax *from the second year preceding the year in which the calculation is made* multiplied by 1,000, and then divided by the ~~[total]~~ statewide *total* equalized valuation *from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F.*

6 State Aid for Educational Adequacy; Local Equalization Aid; Per Pupil Valuation. RSA 198:40 is repealed and reenacted to read as follows:

198:40 Local Equalization Aid. Beginning July 1, 2004, and every fiscal year thereafter, local equalization aid shall be calculated by the department as follows:

I. The statewide total equalized valuation of all municipalities from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and

RSA 83-F, shall be divided by the total statewide average daily membership in residence from the second school year preceding the year in which the calculation is made. The result shall be the statewide average equalized valuation per pupil.

II. The equalized valuation of all property in a municipality from the second year preceding the year in which the calculation is made, including property subject to tax under RSA 82 and RSA 83-F, shall be divided by the average daily membership in residence in the municipality from the second school year preceding the year in which the calculation is made. The result shall be the local equalized valuation per pupil.

III. Eligibility for local equalization aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is equal to, or greater than, the statewide average equalized valuation per pupil as calculated in paragraph I, no local equalization aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive local equalization aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the calculated rate, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality from the second school year preceding the year in which the calculation is made and shall be available to a municipality as local equalization aid.

7 Targeted Per Pupil Aid; State Enhanced Education Aid. Amend RSA 198:40-a and 198:40-b to read as follows:

198:40-a Targeted Per Pupil Aid.

I. A municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to ~~[200]~~ 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, shall be eligible to receive targeted per pupil aid for such municipality's transportation costs as reported on the DOE-25 form, and for such municipality's educationally disabled pupils, pupils eligible for free or reduced-price meals, and English for speakers of other languages which shall be determined by multiplying the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, by the calculated rate. The product shall be divided by 1,000 resulting in a per pupil amount which shall be available to a municipality as follows:

(a) The per pupil amount calculated in paragraph I shall be multiplied by the average daily membership in residence of educationally disabled pupils in the municipality *from the second school year preceding the year in which the calculation is made*. This amount shall be available as targeted aid for educationally disabled pupils in the municipality.

(b) ~~[(1) For the 2005 fiscal year, the per pupil amount calculated in paragraph I, less \$300, shall be multiplied by the average daily membership in residence eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality.~~

~~[(2) For the 2006 fiscal year and every fiscal year thereafter:]~~ The per pupil amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in residence]~~ *head count of pupils in residence from the second school year preceding the year in which the calculation is made* eligible to receive a free or reduced-price meal in grades 1 through 12 in the school district. This amount shall be available as targeted aid for pupils eligible to receive free or reduced-price meals in the municipality. *In this subparagraph, "residence" means the municipality in which such pupils reside.*

(c) The per pupil amount calculated in paragraph I shall be multiplied by the ~~[average daily membership in attendance]~~ *headcount of pupils in attendance* receiving English for speakers of other languages services ~~[in the municipality]~~ *from the second school year preceding the year in which the calculation is made*. This amount shall be available as targeted aid for ~~[pupils in the]~~ *a municipality [receiving] providing* English for speakers of other languages services. ~~[In this subparagraph "average daily membership in attendance" shall be as defined in RSA 189:1-d, III.]~~

(d) *Effective July 1, 2007, no municipality shall count the same pupil in subparagraphs (a)-(c) more than once.*

(e) A municipality eligible to receive targeted per pupil aid under this paragraph shall also receive 100 percent of transportation costs in such municipality.

II. A municipality with a local equalized valuation per pupil, as calculated in RSA 198:40, II, which is greater than [200] **150** percent of the statewide average equalized valuation per pupil as calculated in RSA 198:40, I shall not receive targeted per pupil aid under this section.

198:40-b State Enhanced Education Aid. Beginning July 1, 2004, and every fiscal year thereafter, state enhanced education aid shall be calculated by the department as follows:

I. Divide the [total] statewide **total** equalized valuation of all municipalities [~~excluding utilities, as determined by the department of revenue administration~~] **for the year preceding the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F**, by the total statewide average daily membership in residence **from the second school year preceding the year in which the calculation is made**. The result shall be the statewide average equalized valuation per pupil.

II. Divide the equalized valuation of all property in a municipality [~~excluding utilities, as determined by the department of revenue administration~~] **for the year preceding the year in which the calculation is made, excluding property taxable subject to RSA 82 and RSA 83-F**, by the average daily membership in residence in the municipality **from the second school year preceding the year in which the calculation is made**. The result shall be the local equalized valuation per pupil.

III. Eligibility for state enhanced education aid under this paragraph shall be determined as follows:

(a) If a municipality's local equalized valuation per pupil as calculated in paragraph II is greater than or equal to the statewide average equalized valuation per pupil as calculated in paragraph I, no state enhanced aid shall be available.

(b) If a municipality's local equalized valuation per pupil as calculated in paragraph II is less than the statewide average equalized valuation per pupil as calculated in paragraph I, the municipality shall be entitled to receive state enhanced education aid in an amount equal to the following: subtract the local equalized valuation per pupil as calculated in paragraph II from the statewide average equalized valuation per pupil as calculated in paragraph I. This amount shall be multiplied by the statewide enhanced education tax **rate** imposed statewide in the fiscal year in which this calculation is made, and the product shall be divided by 1,000. The result shall be multiplied by the average daily membership in residence in such municipality **from the second school year preceding the year in which the calculation is made** and shall be available to a municipality as state enhanced education aid.

[IV.(a) In any fiscal year, if the amount raised by the statewide enhanced education property tax in any municipality, except an unincorporated place or a town with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

(b) The amount of such excess to be remitted shall not include any income derived from the investment of funds by the municipal treasurers under RSA 41:29 and RSA 48:16. Any funds remaining after full payment of the excess tax required in subparagraph (a) shall become available for unrestricted use by the municipality.

(c) The commissioner of the department of revenue administration shall collect from the municipality the excess tax and pay the excess tax over to the state treasurer for deposit in the education trust fund established in RSA 198:39.

(d) The commissioner of the department of revenue administration shall calculate the excess amount owed by each municipality pursuant to subparagraph (a).]

[V] IV. In any fiscal year, a municipality shall appropriate all state enhanced education aid funds received under this section to pay for local education costs before raising any additional local education tax revenues [~~locally~~].

8 New Section; School Money; Consumer Price Index Adjustments. Amend RSA 198 by inserting after section 40-c the following new section:

198:40-d Consumer Price Index Adjustments; Transition Grants.

I. For the 2006 fiscal year, and every fiscal year thereafter, the transition grant as calculated under this section shall be adjusted as follows:

(a) Multiply the total state aid for education as calculated in RSA 198:40-c, I for the previous year by 100 percent plus the average annual rate of inflation for the 3 immediately preceding calendar years, as measured by the northeast region consumer price index (CPI) for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The result shall be the CPI-adjusted total state aid for education. In any fiscal year, the CPI-adjusted total state aid for education shall not be less than 100 percent of the CPI-adjusted total state aid for education in the previous fiscal year.

(b) Divide the CPI-adjusted total state aid for education by the total state aid for education pursuant to RSA 198:40-c, I. The result shall be the adjustment factor.

(c) Multiply the municipality's total grant amount as calculated pursuant to RSA 198:40, RSA 198:40-a, and RSA 198:40-b by the adjustment factor.

II. For fiscal years 2005 through 2007, a municipality with a local equalized valuation per pupil as calculated in RSA 198:40, II, which is less than or equal to 150 percent of the statewide average equalized valuation per pupil, as calculated in RSA 198:40, I, and which is scheduled to receive less than 90 percent of the grant such municipality received in the previous fiscal year, shall receive a transition grant in an amount sufficient to increase the municipality's education grant to 90 percent of the amount received by such municipality in the previous fiscal year. If a municipality has a local equalized valuation per pupil which is greater than 150 percent of the statewide average equalized valuation per pupil, such municipality's transition grant shall be zero.

9 Determination of Education Grants. RSA 198:41 is repealed and reenacted to read as follows: 198:41 Determination of Education Grants.

I. Except as provided in paragraph II, the department of education shall determine the amount of the education grant for the municipality by adding all sums received by a municipality under RSA 198:40, RSA 198:40-a, and RSA 198:40-b, as adjusted pursuant to RSA 198:40-d.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the education grant for each municipality as the lesser of the following:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education.

III. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year by November 1.

10 School Money; Distribution of Education Grants. Amend RSA 198:42, II to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA [198:40-c] **198:41** is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education [according to the following formula: from the amount calculated in accordance with RSA 198:40-c, subtract the aggregate amount of the statewide enhanced education tax warrants to be issued by the commissioner of revenue administration for municipalities reported pursuant to RSA 76:9 for the next tax year]. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

11 Excess Statewide Enhanced Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. In any fiscal year, if the amount raised by the statewide enhanced education tax in any municipality, except an unincorporated place or a municipality with an average daily membership in residence of one or less, exceeds the amount necessary to fund all local education costs, excluding repayment of bond principal and construction costs, as determined in such municipality's duly adopted school district budget, the excess shall be remitted to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

12 Alternative Kindergarten Programs. Amend RSA 198:48-a, VII-VIII to read as follows:

VII.(a) For each fiscal year through June 30, 2003, an [adequate] education grant of \$1200 per pupil shall be distributed to school districts, from the education trust fund created in RSA 198:39, for the education of its resident kindergarten pupils enrolled in an approved alternative kindergarten program established under this section.

(b) Once pupils enrolled in an approved alternative kindergarten program have been counted in the average daily membership in residence, school districts shall receive, for each such pupil, an [adequate] education grant calculated in accordance with RSA 198:41.

VIII. Notwithstanding the provisions of this section, alternative kindergarten programs which were approved and in effect prior to April 29, 1999 may continue to operate and shall continue to receive per pupil [adequate] education grant amounts in accordance with RSA 198:41.

13 Repeal. The following are repealed:

I. RSA 198:40-c, II, relative to the consumer price index adjustment for total state aid for education.

II. RSA 198:40-c, IV, relative to the pro rata reduction in total state aid to education.

14 Tobacco Tax; Tax Imposed Effective July 1, 2004. Amend RSA 78:7 to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of [52] 69 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

15 Tobacco Tax; Tax Imposed Effective July 1, 2005. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 59 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

16 Tobacco Tax; Tax Imposed Effective July 1, 2006. RSA 78:7 is repealed and reenacted to read as follows:

78:7 Tax Imposed. A tax upon the retail consumer is hereby imposed at the rate of 52 cents for each package containing 20 cigarettes or at a rate proportional to such rate for packages containing more or less than 20 cigarettes, on all cigarettes sold at retail in this state. The payment of the tax shall be evidenced by affixing stamps to the smallest packages containing the cigarettes in which such products usually are sold at retail. The word "package" as used in this section shall not include individual cigarettes. No tax is imposed on any transactions, the taxation of which by this state is prohibited by the Constitution of the United States.

17 Applicability. Section 14 of this act shall apply to all persons licensed under RSA 78:2. Such persons shall inventory all taxable tobacco products in their possession and file a report of such inventory with the department of revenue administration on a form prescribed by the commissioner within 90 days after the effective date of this act. The tax rate effective July 1, 2004 shall apply to such inventory and the difference, if any, in the amount paid previously on such inventory and the current effective rate of tax shall be paid with the inventory form. The inventory form shall be treated as a tax return for the purpose of computing penalties under RSA 21-J.

18 Education Property Tax; Rate Established. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$4.92 on each \$1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

19 Assessment; Commissioner's Warrant; Commissioner's Report. RSA 76:8 and 76:9 are repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

II. The commissioner shall issue a warrant under the commissioner's hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality by

December 15 directing them to assess such sum and pay it to the municipality for the use of the school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

III. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations not funded by the education property tax, by distributions from the education trust fund under RSA 198:39, or by other revenue sources.

76:9 Commissioner's Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

20 Utility Property Tax; Exemption. RSA 83-F:9 is repealed and reenacted to read as follows:

83-F:9 Exemption From State Education Property Tax. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district, or county taxation under RSA 76.

21 School Boards, Teachers; Definitions Amended. RSA 189:1-d is repealed and reenacted to read as follows:

189:1-d Definitions. In this chapter:

I. "Attendance" means full-time participation in a program of instruction under the direction of a teacher employed by the school district. Educationally disabled home educated pupils educated at school district expense under the direction of a teacher employed by the school district shall be included.

II. "Membership" means pupils of whom attendance is expected, whether a pupil is present or absent on any given day.

III. "Average daily membership in attendance" means the aggregate half-day membership of pupils attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance for preschool and kindergarten pupils shall be divided by the number of instructional days offered to higher-level elementary grades.

IV. "Average daily membership in residence" means the average daily membership in attendance of pupils who are legal residents of the school district pursuant to RSA 193:12 or RSA 193:27, IV and are attending any public school, or who are attending any charter school or private school program approved by the department of education at the expense of the school district.

22 School Money; Definitions; Education Trust Fund; Determination of Per Pupil Adequate Education Cost; Determination of Adequate Education Grants. RSA 198:38-41 are repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" for each school district that operates an elementary school means the amounts calculated in accordance with RSA 198:40, I(a).

VI. "Average base cost per pupil of an elementary school pupil" means the amount as determined in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils weighted as follows:

(a) Every pupil, including kindergarten pupils, 1.0.

(b) A high school pupil, an additional weight of 0.2.

(c) An educationally disabled child, an additional weight of 1.0.

(d)(1) Additional weights based on pupils eligible to receive a free or reduced-price meal shall be calculated by multiplying each municipality's elementary average daily membership in residence by the percentage of elementary pupils eligible to receive a free or reduced-price meal in the district of residence, and multiplied by:

(A) If the district percent is less than or equal to the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, zero.

(B) If the district percentage is greater than the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, the lesser of 1.0 or a number equal to 5 times the difference between the district percentage and the state average percentage multiplied by 0.85.

(2) If the elementary average daily membership of the district of residence is less than 10, the percentage of elementary pupils eligible to receive a free or reduced-price meal shall be equal to the percentage eligible in that district in which the majority of the elementary pupils attend.

(e) Each pupil who is home educated pursuant to a program approved under RSA 193-A shall be added as follows:

(1) 0.1 for each home educated pupil participating in a public school activity; and

(2) An additional 0.15 for each academic course taken in a public school, provided that no co-curricular activity, as defined by the department of education, shall count as an academic course under this subparagraph.

VIII. "Educationally disabled child" means an educationally disabled child as defined in RSA 186-C:2, I.

IX. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III.

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the cost of transporting pupils in kindergarten through grade 8, excluding educationally disabled pupils, to and from school as reported by school districts on the DOE-25 form.

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41, I(a) and (b). In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

198:39 Education Trust Fund Created and Invested.

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42, and to provide education property tax hardship relief under RSA 198:55. The state treasurer shall deposit into this fund immediately upon receipt:

(a) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-A:20-a, relative to business profits taxes.

(b) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

(d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, relative to tobacco taxes.

(e) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-B:13, relative to real estate transfer taxes.

(f) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, 1, relative to the utility property tax.

(g) The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

(h) All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

(i) Tobacco settlement funds in the amount of \$40,000,000 annually.

(j) The school portion of any revenue sharing funds distributed pursuant to RSA 31-A:4 which were apportioned to school districts in the property tax rate calculations in 1998.

(k) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the biennium beginning July 1, 1999, and every biennium thereafter, the cost per pupil shall be established using the following formula:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above.

(2) From the school districts identified in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate the average base cost per pupil of an adequate education at the elementary school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

II. The weighted average daily membership in residence for each municipality shall be calculated by combining the elementary average daily membership in residence with the weighted high school average daily membership in residence, the average daily membership in residence resulting from educationally disabled children, and the additional average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-price meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

III. The statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education by the statewide weighted average daily membership in residence of pupils and then adding 100 percent of transportation costs as defined in RSA 198:38, XI.

#### 198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for the municipality as follows:

(a) Multiply the average base cost per pupil of an elementary pupil by the weighted average daily membership in residence for the municipality; and

(b) Add to the product of subparagraph (a), 100 percent of the municipality's apportioned transportation costs as defined in RSA 198:38, XI;

(c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.



23 School Money; Distribution of Education Grants. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

24 School Money; Targeted Education Grants. RSA 198:45-a is repealed and reenacted to read as follows:

198:45-a Targeted Education Grants.

I. In this section:

(a) "Median family income" and "median home value" shall be as defined in the most recent census data published for New Hampshire counties and municipalities by the United States Census Bureau, United States Department of Commerce. County values shall be used for unincorporated places not reported in the census data.

(b) "Total equalized valuation" shall mean the most recent available total equalized valuation, including utilities and railroads, as determined by the department of revenue administration.

(c) "Adjustment percentage" shall mean the percentage which will result in a total targeted education grant distribution in a fiscal year that will match, as nearly as possible without exceeding, the appropriation in such fiscal year for targeted education grants.

II. The department of education shall annually calculate each municipality's targeted education grant as set forth in this paragraph.

(a) The department of education shall calculate the statewide average per pupil target amount as follows:

(1) Multiply the statewide median family income by 0.5 percent; and

(2) Divide the product by the statewide median home value; and

(3) Multiply the result by the statewide total equalized valuation and divide the product by the statewide average daily membership in residence. The result shall be the statewide average per pupil target amount.

(4) Multiply the statewide average per pupil target amount by 2 and multiply the result by the adjustment percentage.

(b) The department of education shall calculate the local valuation per pupil as follows:

(1) Multiply the average median family income in the municipality by 0.5 percent; and

(2) Divide the product by the median home value in the municipality; and

(3) Multiply the result by the total equalized valuation in the municipality and divide the product by the average daily membership in residence in the municipality. The result shall be the local per pupil amount.

(c) The department of education shall subtract the amount obtained in subparagraph (b) from the amount obtained in subparagraph (a) and multiply the difference by the adjustment percentage. The result, if greater than zero, shall be multiplied by the average daily membership in residence in the municipality and shall be distributed to the municipality as a targeted education grant.

III. The sum of \$10,000,000 shall be appropriated to the education trust fund established in RSA 198:39 for the purpose of providing targeted education grants to school districts. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

IV. Targeted education grants made under this section shall be distributed in accordance with RSA 198:42.

25 Excess Education Property Tax Payment; Subdivision Heading Amended. The subdivision heading immediately preceding RSA 198:46 is repealed and reenacted to read as follows:

Excess Education Property Tax Payment

26 Excess Education Property Tax Payment. RSA 198:46, I is repealed and reenacted to read as follows:

I. Municipalities for which the education property tax exceeds the amount necessary to fund an adequate education determined by RSA 198:40 shall assess and remit such excess amount to the department of revenue administration on or before March 15 of the tax year in which the excess occurs.

27 Excess Education Property Tax Payment; Forms. RSA 198:47 is repealed and reenacted to read as follows:

198:47 Forms. The commissioner shall approve and provide forms relative to the reporting and remitting of excess education property tax by the municipalities.

28 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, III(a) is repealed and reenacted to read as follows:

(a) Owns a homestead or interest in a homestead subject to the education property tax;

29 Low and Moderate Income Homeowners Property Tax Relief. RSA 198:57, IV(c) is repealed and reenacted to read as follows:

(c) Multiply the lesser of the amount determined in subparagraph (a) or (b) by the current state education property tax rate as shown on the tax bill under RSA 76:11-a;

30 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. The base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

31 Repeal. The following are repealed:

I. RSA 198:40-a, relative to targeted per pupil aid.

II. RSA 198:40-b, relative to state enhanced education aid.

III. RSA 198:40-c, relative to total state aid for education.

32 Contingent Applicability. If any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is declared to be contrary to the New Hampshire constitution, or if the applicability thereof to any agency, person, or circumstance is held invalid, then sections 18-31 of this act shall take effect immediately upon the determination of such unconstitutionality or invalidity, and shall remain in effect thereafter.

33 Effective Date.

I. Sections 1 and 15 of this act shall take effect July 1, 2005.

II. Section 16 of this act shall take effect July 1, 2006.

III. Sections 17 and 32 of this act shall take effect upon its passage.

IV. RSA 198:40-a, I(d) as inserted by section 7 of this act shall take effect July 1, 2007.

V. Sections 18-31 of this act shall take effect as provided in section 32 of this act.

VI. The remainder of this act shall take effect July 1, 2004 at 12:01 a.m.

### AMENDED ANALYSIS

This bill:

I. For the 2005-2007 fiscal years, allows municipalities to receive 90 percent of the education grant received in the previous fiscal year.

II. Amends certain statutory provisions concerning the distribution of state aid for education.

III. Increases the tobacco tax from 52 to 69 cents for the 2005 fiscal year.

IV. Decreases the tobacco tax from 69 to 59 cents for the 2006 fiscal year.

V. Decreases the tobacco tax from 69 to 52 cents for the 2007 fiscal year and thereafter.

VI. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-17 of SB 302-FN-LOCAL of the 2004 legislative session is found to be unconstitutional or invalid.

Rep. Camm inquired if floor amendment (1494h) was divisible and requested that Sections 14, 15, 16, and 17 be divided from the remainder of the floor amendment.

The Speaker ruled that the floor amendment was divisible and that without objection, Sections 14, 15, 16 and 17 be considered at the present time.

Rep. King spoke in favor and yielded to questions.

Rep. Buhlman spoke against and yielded to questions.

Reps. Burling and Jasper spoke in favor and yielded to questions.

Reps. Michael Harrington spoke against.

Reps. Gibson and Price spoke in favor.

Rep. James Wheeler requested a roll call; sufficiently seconded.

The question being adoption of Sections 14, 15, 16 and 17 of floor amendment (1494h).

**YEAS 241 NAYS 96****YEAS 241****BELKNAP**

Bartlett, Gordon  
 Flanders, Donald  
 Rice, Thomas  
 Whalley, Michael

Boyce, Laurie  
 Holbrook, Robert  
 Russell, David

Dewhirst, Glenn  
 Nedeau, Stephen  
 Thomas, John

Fitzgerald, James  
 Pilliod, James  
 Wendelboe, Fran

**CARROLL**

Brown, Carolyn  
 Olimpio, J Lisbeth

Kenney, Bettie  
 Patten, Betsey

McConkey, Mark  
 Philbrick, Donald

Morrow, Harry  
 Stevens, Stanley

**CHESHIRE**

Allen, Peter  
 Fish, Douglas  
 Manning, Joseph  
 Richardson, Barbara

Dexter, Judson  
 Hunt, John  
 Mitchell, McKim  
 Smith, Edwin

Dunn, James  
 Laurent, John  
 Parkhurst, Henry  
 Webber, Amy

Espiefs, Peter  
 Liebl, George  
 Pratt, Irene  
 Weed, Charles

**COOS**

King, Frederick  
 Theberge, Robert

Poulin, Richard  
 Tholl, John Jr

Pratt, Leighton

Stohl, Eric

**GRAFTON**

Akins, Ralph  
 Bleyler, Ruth  
 Dudley, Terri  
 Nordgren, Sharon  
 Williams, Burton

Alger, John  
 Cooney, Mary  
 Ham, Bonnie  
 Scovner, Nancy

Almy, Susan  
 Densmore, Edward  
 Hammond, Lee  
 Sokol, Hilda

Benn, Bernard  
 Diamond, Estelle  
 Ingbreton, Paul  
 Solomon, Peter

**HILLSBOROUGH**

Allan, Nelson  
 Batula, Peter  
 Buckley, Raymond  
 Chabot, Robert  
 Coughlin, Pamela  
 Drisko, Richard  
 Ford, Nancy  
 Goyette, Peter Jr  
 Hall, Charles  
 Hinkle, Peyton  
 Jasper, Shawn  
 L'Heureux, Robert  
 Lessard, Rudy  
 Messier, Irene  
 Ober, Russell III  
 Reeves, Sandra  
 Stepanek, Stephen  
 Wheeler, Robert

Arnold, Thomas Jr  
 Beaton, William  
 Carlson, Donald  
 Christensen, D L Chris  
 Crane, Elenore Casey  
 Emerton, Larry  
 Gargas, Carolyn  
 Graham, John  
 Hallyburton, Margaret  
 Hunter, Bruce  
 Johnson, Lionel  
 Laflamme, Charles  
 Malloy, Chris  
 Mooney, Maureen  
 Pappas, Christopher  
 Rowe, Robert  
 Sullivan, Francis

Artz, Lawrence  
 Brassard, Paul  
 Carter, Jeffrey  
 Christiansen, Lars  
 Desmarais, Vivian  
 Fields, Dennis  
 Gibson, John  
 Greenberg, Gary  
 Harrington, Paul  
 Infantine, William  
 Kopka, Angeline  
 LaFlamme, Paul  
 McHugh, Claire  
 Moran, Edward  
 Pilotte, Maurice  
 Shaw, Barbara  
 Tate, Joan

Balcom, John  
 Brundige, Robert  
 Cernota, Albert  
 Clayton, William  
 Dokmo, Cynthia  
 Fletcher, Richard  
 Gonzalez, Carlos  
 Haley, Robert  
 Haytayan, Harry Jr  
 Irwin, Anne-Marie  
 Kurk, Neal  
 Leach, Edward  
 Mercer, Robert  
 Mosher, William  
 Price, Pamela  
 Spiess, Paul  
 Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
 Clarke, Claire  
 French, Barbara  
 Jacobson, Alf  
 Leber, William  
 Oliver, James  
 Rodd, Beth

Blanchard, Elizabeth  
 Davis, Frank  
 Hager, Elizabeth  
 Kenison, Leon  
 Lockwood, Priscilla  
 Osborne, Jessie  
 Rush, Deanna

Bouchard, Candace  
 DeStefano, Stephen  
 Hamm, Christine  
 L'Heureux, Stephen  
 MacKay, James  
 Owen, Derek  
 Seldin, Gloria

Brueggemann, Donald  
 Fraser, Leo Jr  
 Hess, David  
 Langer, Ray  
 McCormick, Tom  
 Potter, Frances  
 Wallner, Mary Jane

**ROCKINGHAM**

Blanchard, MaryAnn  
Clark, Vivian  
Dowd, John  
Gilbert, Karl  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Langley, Jane  
McEachern, Paul  
Packard, Sherman  
Rausch, James  
Scamman, Stella  
Waterhouse, Kevin  
Wiley, Robert

Bridle, Russell  
Cooney, Richard  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Hutchinson, Karen  
Katsakiores, Phyllis  
Langone, John  
McKinney, Betsy  
Pantelakos, Laura  
Robertson, Carl  
Splaine, James  
Weare, E Albert  
Zolla, William

Carson, Sharon  
DiFruscia, Anthony  
Flanders, John Sr  
Gleason, John  
Headd, James  
Ingram, Russell  
Kelley, Jane  
Letourneau, Robert  
McMahon, Charles  
Priestley, Anne  
Roessner, Kurt  
Stone, Joseph  
Welch, David

Casey, Kimberley  
Dodge, Robert  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Johnson, Robert  
Kobel, Rudolph  
Major, Norman  
Norelli, Terie  
Quandt, Matthew  
Ruffner, Walter  
Tufts, J Arthur  
Weldy, Norman Jr

**STRAFFORD**

Bemis, Alan  
Dunlap, Patricia  
Keans, Sandra  
Pelletier, Arthur  
Smith, Marjorie  
Vachon, Dennis

Berube, Roger  
Grassie, Anne  
Knowles, William  
Rollo, Deanna  
Snyder, Clair  
Wall, Janet

Brown, Julie  
Hofemann, Roland  
Musler, George  
Rous, Emma  
Spang, Judith

Creteau, Irene  
Kaen, Naida  
Newton, Clifford  
Schmidt, Peter  
Twombly, James

**SULLIVAN**

Allison, David  
Flint, Gordon Sr

Burling, Peter  
Franklin, Peter

Cloutier, John  
Jones, Constance

Donovan, Thomas  
Rodeschin, Beverly

**NAYS 96****BELKNAP**

Ahern, Omer Jr

Allen, Janet

Clark, Charles

**CARROLL**

Babson, David Jr

Derby, Mark

Dickinson, Howard

Mock, Henry

**CHESHIRE**

Eaton, Daniel  
Tilton, Anna

Meador, David

Pratt, John

Robertson, Timothy

**COOS**

Brady, Mark

Guay, Lawrence

Mears, Edgar

**GRAFTON**

Barker, Robert  
Maybeck, Margie

Dorsett, Andrew  
Naro, Debra

Gilman, G Michael  
Sorg, Gregory

Giuda, Robert

**HILLSBOROUGH**

Adams, Jarvis  
Bergeron, Jean-Guy  
Clemons, Jane  
Dionne, Kimberley  
Hansen, Ryan  
Katsiantonis, Thomas  
McElroy, Henry Jr  
Pappas, Marc  
Slocum, Lee  
Wheeler, James

Balboni, Michael  
Bruno, Pierre  
Cote, David  
Elliott, Larry  
Hawkins, Ken  
Lasky, Bette  
Michon, Stephen  
Pepino, Leo  
Souza, Kathleen

Baroody, Benjamin  
Buhlman, David  
Cote, Peter  
Gorman, Mary  
Holden, Randolph  
Luebker, Bernard  
O'Brien, Lori  
Scanlon, Michael  
Sweeney, Cynthia

Barry, J Gail  
Carter, Mark  
Craig, James  
Hagan, Barbara  
Jean, Claudette  
Martin, Mary Ellen  
Palangas, Eric  
Schulze, Joan  
Tahir, Saghir

**MERRIMACK**

Currier, David  
Kennedy, Richard

Dunne, Christopher  
Marple, Richard

Field, William  
Nutter, Edward

Foley, Albert  
Soltani, Tony

**ROCKINGHAM**

Abbott, Dennis  
Bishop, Franklin  
Johnson, Rogers  
Putnam, Ed II

Allen, Mary  
Cady, Harriet  
Manning, John  
Smith, Donald

Belanger, Ronald  
Camm, Kevin  
McCann, Richard  
Vallone, Matthew

Bicknell, Elbert  
Coes, Betsy  
Morris, Richard  
Weyler, Kenneth

**STRAFFORD**

Albert, Russell  
Easson, Timothy  
Taylor, Kathleen

Bickford, David  
Harrington, Michael  
Woods, Phyllis

Campbell, W Packy  
Hollinger, Jeffrey

Cataldo, Sam  
Johnson, Nancy

**SULLIVAN**

Ferland, Brenda

Leone, Richard

Phinizz, James

and Sections 14, 15, 16 and 17 of floor amendment (1494h) were adopted.

The question now being adoption of the remainder of floor amendment (1494h).

Rep. James Wheeler requested a roll call; sufficiently seconded.

**YEAS 282 NAYS 53****YEAS 282****BELKNAP**

Bartlett, Gordon  
Fitzgerald, James  
Pilliod, James  
Wendelboe, Fran

Boyce, Laurie  
Flanders, Donald  
Rice, Thomas  
Whalley, Michael

Clark, Charles  
Holbrook, Robert  
Russell, David

Dewhirst, Glenn  
Nedeau, Stephen  
Thomas, John

**CARROLL**

Babson, David Jr  
McConkey, Mark  
Philbrick, Donald

Brown, Carolyn  
Merrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Allen, Peter  
Espiefts, Peter  
Liebl, George  
Pratt, Irene  
Webber, Amy

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, John  
Weed, Charles

Dunn, James  
Hunt, John  
Mitchell, McKim  
Richardson, Barbara

Eaton, Daniel  
Laurent, John  
Parkhurst, Henry  
Smith, Edwin

**COOS**

Brady, Mark  
Poulin, Richard  
Tholl, John Jr

Guay, Lawrence  
Pratt, Leighton

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Hammond, Lee  
Sokol, Hilda

Alger, John  
Bleyler, Ruth  
Dorsett, Andrew  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Cooney, Mary  
Dudley, Terri  
Nordgren, Sharon  
Williams, Burton

Barker, Robert  
Densmore, Edward  
Ham, Bonnie  
Scovner, Nancy

**HILLSBOROUGH**

Allan, Nelson  
Balcom, John  
Bergeron, Jean-Guy

Arnold, Thomas Jr  
Baroddy, Benjamin  
Brassard, Paul

Artz, Lawrence  
Batula, Peter  
Brundige, Robert

Balboni, Michael  
Beaton, William  
Bruno, Pierre

Buckley, Raymond  
 Chabot, Robert  
 Clemons, Jane  
 Craig, James  
 Drisko, Richard  
 Fletcher, Richard  
 Gonzalez, Carlos  
 Greenberg, Gary  
 Harrington, Paul  
 Infantine, William  
 Johnson, Lionel  
 Laflamme, Charles  
 Lessard, Rudy  
 Mercer, Robert  
 Moran, Edward  
 Pappas, Christopher  
 Price, Pamela  
 Shaw, Barbara  
 Stepanek, Stephen  
 Wheeler, James

Carlson, Donald  
 Christensen, D L Chris  
 Cote, David  
 Crane, Elenore Casey  
 Elliott, Larry  
 Ford, Nancy  
 Gorman, Mary  
 Haley, Robert  
 Haytayan, Harry Jr  
 Irwin, Anne-Marie  
 Kopka, Angeline  
 LaFlamme, Paul  
 Malloy, Chris  
 Messier, Irene  
 Mosher, William  
 Pappas, Marc  
 Reeves, Sandra  
 Slocum, Lee  
 Sullivan, Francis  
 Wheeler, Robert

Carter, Jeffrey  
 Christiansen, Lars  
 Cote, Peter  
 Desmarais, Vivian  
 Emerton, Larry  
 Gargasch, Carolyn  
 Goyette, Peter Jr  
 Hall, Charles  
 Hinkle, Peyton  
 Jasper, Shawn  
 Kurk, Neal  
 Lasky, Bette  
 Martin, Mary Ellen  
 Michon, Stephen  
 Ober, Russell III  
 Pepino, Leo  
 Rowe, Robert  
 Souza, Kathleen  
 Tate, Joan

Cernota, Albert  
 Clayton, William  
 Coughlin, Pamela  
 Dokmo, Cynthia  
 Fields, Dennis  
 Gibson, John  
 Graham, John  
 Hallyburton, Margaret  
 Hunter, Bruce  
 Jean, Claudette  
 L'Heureux, Robert  
 Leach, Edward  
 McHugh, Claire  
 Mooney, Maureen  
 Palangas, Eric  
 Pilotte, Maurice  
 Schulze, Joan  
 Spiess, Paul  
 Vaillancourt, Steve

### MERRIMACK

Anderson, Eric  
 Clarke, Claire  
 French, Barbara  
 Jacobson, Alf  
 Leber, William  
 Nutter, Edward  
 Potter, Frances  
 Soltani, Tony

Blanchard, Elizabeth  
 Davis, Frank  
 Hager, Elizabeth  
 Kenison, Leon  
 Lockwood, Priscilla  
 Oliver, James  
 Rodd, Beth  
 Wallner, Mary Jane

Bouchard, Candace  
 DeStefano, Stephen  
 Hamm, Christine  
 L'Heureux, Stephen  
 MacKay, James  
 Osborne, Jessie  
 Rush, Deanna

Brueggemann, Donald  
 Fraser, Leo Jr  
 Hess, David  
 Langer, Ray  
 McCormick, Tom  
 Owen, Derek  
 Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
 Camm, Kevin  
 DiFruscia, Anthony  
 Flanders, John Sr  
 Gleason, John  
 Holland, James Jr  
 Johnson, Robert  
 Kelley, Jane  
 Letourneau, Robert  
 McMahon, Charles  
 Priestley, Anne  
 Robertson, Carl  
 Splaine, James  
 Waterhouse, Kevin  
 Wiley, Robert

Bicknell, Elbert  
 Carson, Sharon  
 Dodge, Robert  
 Francoeur, Sheila  
 Gould, Kenneth  
 Hughes, Daniel  
 Johnson, Rogers  
 Kobel, Rudolph  
 Major, Norman  
 Norelli, Terie  
 Putnam, Ed II  
 Roessner, Kurt  
 Stone, Joseph  
 Welch, David  
 Zolla, William

Blanchard, MaryAnn  
 Casey, Kimberley  
 Dowd, John  
 Gilbert, Karl  
 Griffin, Mary  
 Hutchinson, Karen  
 Katsakiores, George  
 Langley, Jane  
 McEachern, Paul  
 Packard, Sherman  
 Quandt, Matthew  
 Ruffner, Walter  
 Tufts, J Arthur  
 Weldy, Norman Jr

Bridle, Russell  
 Cooney, Richard  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Ingram, Russell  
 Katsakiores, Phyllis  
 Langone, John  
 McKinney, Betsy  
 Pantelakos, Laura  
 Rausch, James  
 Scamman, Stella  
 Vallone, Matthew  
 Weyler, Kenneth

### STRAFFORD

Albert, Russell  
 Creteau, Irene  
 Hollinger, Jeffrey  
 Knowles, William  
 Rollo, Deanna  
 Snyder, Clair  
 Vachon, Dennis

Bemis, Alan  
 Dunlap, Patricia  
 Johnson, Nancy  
 Musler, George  
 Rous, Emma  
 Spang, Judith  
 Wall, Janet

Berube, Roger  
 Harrington, Michael  
 Kaen, Naida  
 Newton, Clifford  
 Schmidt, Peter  
 Taylor, Kathleen

Brown, Julie  
 Hofemann, Roland  
 Keans, Sandra  
 Pelletier, Arthur  
 Smith, Marjorie  
 Twombly, James

**SULLIVAN**

Allison, David  
Flint, Gordon Sr

Burling, Peter  
Jones, Constance

Cloutier, John  
Leone, Richard

Donovan, Thomas  
Rodeschin, Beverly

**NAYS 53  
BELKNAP**

Ahern, Omer Jr

Allen, Janet

**CARROLL**

Derby, Mark

Mock, Henry

**CHESHIRE**

Meador, David

Robertson, Timothy

Tilton, Anna

**COOS**

None

**GRAFTON**

Gilman, G Michael  
Sorg, Gregory

Giuda, Robert

Ingretson, Paul

Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis  
Hagan, Barbara  
Katsiantonis, Thomas  
Scanlon, Michael

Barry, J Gail  
Hansen, Ryan  
Luebker, Bernard  
Sweeney, Cynthia

Carter, Mark  
Hawkins, Ken  
McElroy, Henry Jr  
Tahir, Saghir

Dionne, Kimberley  
Holden, Randolph  
O'Brien, Lori

**MERRIMACK**

Currier, David  
Kennedy, Richard

Dunne, Christopher  
Marple, Richard

Field, William

Foley, Albert

**ROCKINGHAM**

Allen, Mary  
Clark, Vivian  
Morris, Richard

Belanger, Ronald  
Coes, Betsy  
Smith, Donald

Bishop, Franklin  
Manning, John  
Weare, E Albert

Cady, Harriet  
McCann, Richard

**STRAFFORD**

Bickford, David  
Grassie, Anne

Campbell, W Packy  
Woods, Phyllis

Cataldo, Sam

Easson, Timothy

**SULLIVAN**

Ferland, Brenda  
and the remainder of floor amendment (1494h) was adopted.  
Rep. Easson voted Nay and intended to vote Yea.  
Rep. Kurk offered a floor amendment (1516h) and spoke in favor.

**Floor Amendment (1516h)**

Amend the section heading of RSA 198:40-d and the introductory paragraph of RSA 198:40-d, I as inserted by section 8 of the bill by replacing them with the following:

198:40-d Consumer Price Index Adjustments.

I. For the 2006 fiscal year, and every fiscal year thereafter:

Floor amendment (1516h) adopted.

The question now being adoption of the Ought to Pass as Amended motion.

Rep. Mark Carter spoke against.

Rep. Hager spoke in favor.

Rep. Mark Carter requested a roll call; sufficiently seconded.

The question being adoption of Ought to Pass as Amended.

**YEAS 255 NAYS 69****YEAS 255****BELKNAP**

Bartlett, Gordon  
Holbrook, Robert  
Russell, David

Dewhirst, Glenn  
Nedeau, Stephen  
Thomas, John

Fitzgerald, James  
Pilliod, James  
Wendelboe, Fran

Flanders, Donald  
Rice, Thomas  
Whalley, Michael

**CARROLL**

Brown, Carolyn  
Morrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

McConkey, Mark  
Philbrick, Donald

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Liebl, George  
Pratt, Irene  
Webber, Amy

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Richardson, Barbara  
Weed, Charles

Dunn, James  
Hunt, John  
Mitchell, McKim  
Robertson, Timothy

Eaton, Daniel  
Laurent, John  
Parkhurst, Henry  
Smith, Edwin

**COOS**

King, Frederick  
Stohl, Eric

Mears, Edgar  
Theberge, Robert

Poulin, Richard  
Tholl, John Jr

Pratt, Leighton

**GRAFTON**

Akins, Ralph  
Benn, Bernard  
Diamond, Estelle  
Nordgren, Sharon  
Williams, Burton

Alger, John  
Bleyler, Ruth  
Dudley, Terri  
Scovner, Nancy

Almy, Susan  
Cooney, Mary  
Ham, Bonnie  
Sokol, Hilda

Barker, Robert  
Densmore, Edward  
Hammond, Lee  
Solomon, Peter

**HILLSBOROUGH**

Allan, Nelson  
Batula, Peter  
Bruno, Pierre  
Chabot, Robert  
Clemons, Jane  
Craig, James  
Drisko, Richard  
Fletcher, Richard  
Gonzalez, Carlos  
Greenberg, Gary  
Harrington, Paul  
Infantine, William  
Johnson, Lionel  
Laflamme, Charles  
Malloy, Chris  
Messier, Irene  
Mosher, William  
Pilotte, Maurice  
Schulze, Joan  
Stepanek, Stephen  
Wheeler, Robert

Arnold, Thomas Jr  
Beaton, William  
Buckley, Raymond  
Christensen, D L Chris  
Cote, David  
Crane, Elenore Casey  
Elliott, Larry  
Ford, Nancy  
Gorman, Mary  
Haley, Robert  
Haytayan, Harry Jr  
Irwin, Anne-Marie  
Kopka, Angeline  
LaFlamme, Paul  
Martin, Mary Ellen  
Michon, Stephen  
Ober, Russell III  
Price, Pamela  
Shaw, Barbara  
Sullivan, Francis

Artz, Lawrence  
Brassard, Paul  
Carlson, Donald  
Christiansen, Lars  
Cote, Peter  
Desmarais, Vivian  
Emerton, Larry  
Gargas, Carolyn  
Goyette, Peter Jr  
Hall, Charles  
Hinkle, Peyton  
Jasper, Shawn  
Kurk, Neal  
Lasky, Bette  
McHugh, Claire  
Mooney, Maureen  
Palangas, Eric  
Reeves, Sandra  
Slocum, Lee  
Tahir, Saghir

Baroody, Benjamin  
Brundige, Robert  
Cernota, Albert  
Clayton, William  
Coughlin, Pamela  
Dokmo, Cynthia  
Fields, Dennis  
Gibson, John  
Graham, John  
Hallyburton, Margaret  
Hunter, Bruce  
Jean, Claudette  
L'Heureux, Robert  
Leach, Edward  
Mercer, Robert  
Moran, Edward  
Pappas, Christopher  
Rowe, Robert  
Spiess, Paul  
Vaillancourt, Steve

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
Fraser, Leo Jr

Blanchard, Elizabeth  
Currier, David  
French, Barbara

Bouchard, Candace  
Davis, Frank  
Hager, Elizabeth

Brueggemann, Donald  
DeStefano, Stephen  
Ham, Christine



Hess, David  
 Langer, Ray  
 McCormick, Tom  
 Potter, Frances  
 Wallner, Mary Jane

Jacobson, Alf  
 Leber, William  
 Oliver, James  
 Rodd, Beth

Kenison, Leon  
 Lockwood, Priscilla  
 Osborne, Jessie  
 Rush, Deanna

L'Heureux, Stephen  
 MacKay, James  
 Owen, Derek  
 Seldin, Gloria

### ROCKINGHAM

Belanger, Ronald  
 Cooney, Richard  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Johnson, Robert  
 Kelley, Jane  
 Major, Norman  
 Norelli, Terie  
 Quandt, Matthew  
 Ruffner, Walter  
 Tufts, J Arthur  
 Weyler, Kenneth

Blanchard, MaryAnn  
 DiFruscia, Anthony  
 Flanders, John Sr  
 Gleason, John  
 Holland, James Jr  
 Johnson, Rogers  
 Langley, Jane  
 McEachern, Paul  
 Packard, Sherman  
 Rausch, James  
 Scamman, Stella  
 Waterhouse, Kevin  
 Wiley, Robert

Bridle, Russell  
 Dodge, Robert  
 Francoeur, Sheila  
 Gould, Kenneth  
 Hughes, Daniel  
 Katsakiores, George  
 Langone, John  
 McKinney, Betsy  
 Pantelakos, Laura  
 Robertson, Carl  
 Splaine, James  
 Welch, David  
 Zolla, William

Carson, Sharon  
 Dowd, John  
 Gilbert, Karl  
 Griffin, Mary  
 Ingram, Russell  
 Katsakiores, Phyllis  
 Letourneau, Robert  
 McMahon, Charles  
 Priestley, Anne  
 Roessner, Kurt  
 Stone, Joseph  
 Weldy, Norman Jr

### STRAFFORD

Bemis, Alan  
 Dunlap, Patricia  
 Keans, Sandra  
 Pelletier, Arthur  
 Smith, Marjorie  
 Vachon, Dennis

Berube, Roger  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Snyder, Clair  
 Wall, Janet

Brown, Julie  
 Hollinger, Jeffrey  
 Musler, George  
 Rous, Emma  
 Spang, Judith

Creteau, Irene  
 Johnson, Nancy  
 Newton, Clifford  
 Schmidt, Peter  
 Twombly, James

### SULLIVAN

Allison, David  
 Flint, Gordon Sr  
 Rodeschin, Beverly

Burling, Peter  
 Franklin, Peter

Cloutier, John  
 Jones, Constance

Donovan, Thomas  
 Leone, Richard

### NAYS 69

### BELKNAP

Ahern, Omer Jr

Allen, Janet

Boyce, Laurie

Clark, Charles

### CARROLL

Babson, David Jr

Derby, Mark

Mock, Henry

### CHESHIRE

Meader, David

Pratt, John

Tilton, Anna

### COOS

Brady, Mark

Guay, Lawrence

### GRAFTON

Dorsett, Andrew  
 Maybeck, Margie

Gilman, G Michael  
 Naro, Debra

Giuda, Robert  
 Sorg, Gregory

Ingbretson, Paul

### HILLSBOROUGH

Adams, Jarvis  
 Buhlman, David  
 Hansen, Ryan  
 McElroy, Henry Jr  
 Souza, Kathleen

Balboni, Michael  
 Carter, Mark  
 Hawkins, Ken  
 O'Brien, Lori  
 Sweeney, Cynthia

Barry, J Gail  
 Dionne, Kimberley  
 Katsiantonis, Thomas  
 Pappas, Marc  
 Wheeler, James

Bergeron, Jean-Guy  
 Hagan, Barbara  
 Luebker, Bernard  
 Scanlon, Michael

**MERRIMACK**

Field, William  
Soltani, Tony

Kennedy, Richard

Marple, Richard

Nutter, Edward

**ROCKINGHAM**

Abbott, Dennis  
Cady, Harriet  
Kobel, Rudolph  
Putnam, Ed II

Allen, Mary  
Camm, Kevin  
Manning, John  
Smith, Donald

Bicknell, Elbert  
Clark, Vivian  
McCann, Richard  
Vallone, Matthew

Bishop, Franklin  
Coes, Betsy  
Morris, Richard  
Weare, E Albert

**STRAFFORD**

Albert, Russell  
Easson, Timothy

Bickford, David  
Harrington, Michael

Campbell, W Packy  
Taylor, Kathleen

Cataldo, Sam  
Woods, Phyllis

**SULLIVAN**

Ferland, Brenda

Phinizz, James

and the Ought to Pass as Amended motion was adopted.

Ordered to third reading.

Rep. Pepino did not vote and notified the Clerk that he wished to be recorded in favor.

**PROTEST**

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Bruno requested that his protest be entered on the Permanent Journal.

I, Pierre Bruno, protest the passage of SB 302 because it includes an increase to the cigarette tax which I rejected in an earlier vote. However, I recognize the importance of the passage of the remaining parts of this bill and had to support its passage.

**RESOLUTION**

Rep. Hess offered the following: RESOLVED, that in accordance with the list in the possession of the Clerk, Senate Joint Resolution numbered 3 shall be by this resolution read a first and second time by the therein listed title.

Adopted.

**INTRODUCTION OF SENATE BILL****First, second reading and referral**

**SJR 3**, urging the United States Supreme Court to retain the words “under God” in the pledge of allegiance. (Judiciary)

**RESOLUTION**

Rep. Hess offered the following: RESOLVED, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, May 13, 2004 at 10:00 a.m.

Adopted.

**LATE SESSION****Third reading and final passage**

**SB 109**, adopting the model Drug Dealer Liability Act.

**SB 449**, relative to fluoridation of municipally-owned public water systems.

**SB 533**, relative to licensing requirements for certain recreation and child care programs.

**SB 478-FN**, relative to penalties for DWI offenses.

**SB 153**, adopting the nurse licensure compact.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

**SB 302-FN-L**, making technical corrections to the education funding formula.

**UNANIMOUS CONSENT**

Rep. Rowe addressed the House and presented Rep. Mock with a declaration in honor of his birthday.

**RECESS MOTION**

Rep. Hess moved that the House stand in recess for the purposes of receiving enrolled bill amendments, enrolled bill reports and Senate messages only.

Adopted.

The House recessed at 3:30 p.m.

**RECESS**

**(Rep. Daniel Eaton in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 422, 493, 520, 532, 1131, 1136, 1202, 1257, 1266, 1316, Constitutional Amendment Concurrent Resolution numbered 5, and Senate Bills numbered 19, 128, 176, 356, 361, 377, 380, 399, 403, 452, 455, 469, 484 and 488.

Rep. Currier, Sen. D'Allesandro for the Committee

**RECESS**

**(Rep. MacKay in the Chair)**

**ENROLLED BILL AMENDMENTS**

**SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. (Amendment printed SJ 05/06/04)

Adopted.

**SB 351-FN**, relative to concurrent enrollment at regional vocational education centers. (Amendment printed SJ 05/06/04)

Adopted.

**SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems. (Amendment printed SJ 05/06/04)

Adopted.

**SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety. (Amendment printed SJ 05/06/04)

Adopted.

**SENATE MESSAGES****CONCURRENCE**

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

**HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3).

**CONCURRENCE WITH AMENDMENTS**

**SB 99**, relative to compliance with federal law in the making of first and second mortgage loans.

**SB 207**, relative to exemptions from the consumer protection act and the regulation of retail installment sales of motor vehicles.

**SB 301-FN**, relative to liquor licenses and relative to sales of alcoholic beverages.

**SB 303-FN**, relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.

**SB 314**, relative to access to medical records.

**SB 316**, relative to the payment of salaried employees.

- SB 324-FN-A-L**, relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.
- SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.
- SB 333-FN**, establishing a unique pupil identification system.
- SB 342-FN**, relative to payment of utility assessments, relative to regulation of electric generation companies, and relative to violations of gas pipeline and liquefied petroleum gas system regulation.
- SB 348**, relative to the sale of manufactured housing and the management of manufactured housing parks.
- SB 357**, authorizing municipalities to adopt quarterly billing of taxes.
- SB 359**, relative to construction of buildings on certain pre-existing streets.
- SB 366-FN**, relative to the Interstate Insurance Product Compact.
- SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004.
- SB 368**, relative to reinsurance.
- SB 370**, relative to the insurance rating law.
- SB 371**, relative to certain technical changes in the insurance laws.
- SB 375**, relative to the regulation of physician assistants.
- SB 383-FN**, relative to pharmacy benefit management.
- SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem.
- SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older.
- SB 397**, requiring the department of environmental services to adopt certain rules and to eliminate certain substances from gasoline supplies.
- SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system.
- SB 406**, relative to adoption procedures.
- SB 409-FN**, revising the vocational school licensing statutes.
- SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations.
- SB 418**, relative to voting procedures in the Hanover school district.
- SB 427**, relative to legal recognition of out-of-state marriages and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.
- SB 430-FN**, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers.
- SB 436-FN-L**, relative to the Claremont and Newport district courts.
- SB 439**, relative to probationary drivers' licenses and amending the effective date for establishing a criminal penalty for facilitating a drug or underage alcohol house party.
- SB 441**, relative to the operation of dental clinics by health care charitable trusts.
- SB 442**, relative to manufactured housing installation standards.
- SB 443**, relative to rural electric cooperatives and establishing an energy planning advisory board.
- SB 445**, relative to the regulation of dietitians by the board of licensed dietitians.
- SB 448-FN**, relative to consumer guaranty contracts.
- SB 470-FN**, relative to funding for the physician effectiveness program, and establishing a dedicated fund.
- SB 487**, relative to lead sinkers.
- SB 494**, relative to the prohibition on taking conch and winkles; licensing requirements for taking lobsters and crabs; and changing the name of the advisory committee on shore fisheries to the advisory committee on marine fisheries.
- SB 495-FN**, relative to original and youth operators' licenses.
- SB 496**, relative to the definition of snow traveling vehicle.
- SB 498-FN**, relative to the regulation of debt adjustment services.
- SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities.
- SB 509-FN**, relative to civil recoveries for false claims paid or approved by the department of health and human services.

**SB 511-FN**, relative to the penalties for rioting.

**SB 520**, relative to child support modification and service of divorce petitions.

**SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway.

**SB 531**, permitting the state veterans advisory committee to adopt bylaws and relative to eligibility for the veteran's property tax credit, and relative to other optional tax credits.

### **NONCONCURRENCE WITH AMENDMENT**

**SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways.

### **ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE**

**HB 643-FN**, relative to the family division of the courts.

The President appointed Sens. Peterson, Roberge and Foster.

**HB 1165**, relative to extending domestic violence protection orders.

The President appointed Sens. Peterson, Boyce and Estabrook.

**HB 1227**, relative to land assessed for current use which is taken by eminent domain.

The President appointed Sens. Clegg, Morse and D'Allesandro.

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

The President appointed Sens. Kenney, Morse and Cohen.

**HB 1293**, relative to emission control equipment for certain vehicles.

The President appointed Sens. Clegg, Kenney and Below.

**HB 1380-FN**, relative to unauthorized video surveillance.

The President appointed Sens. Barnes, Gatsas and Larsen.

### **RECESS**

**(Rep. Edwin Smith in the Chair)**

### **SENATE MESSAGES**

### **ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE**

**HB 176**, relative to listing candidates on ballots.

The President appointed Sens. Boyce, Flanders and Kenney.

**HB 243**, relative to motor vehicle exhaust noise standards.

The President appointed Sens. Morse, Flanders and Martel.

**HB 384**, relative to financial affidavits in domestic relations cases.

The President appointed Sens. Peterson, Sapareto and Roberge.

**HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

The President appointed Sens. Martel, Boyce and Estabrook.

**HB 1162**, relative to school district policies on bullying.

The President appointed Sens. Barnes, O'Hearn and Foster.

**HB 1262**, establishing a committee to study ways to encourage municipal recycling efforts.

The President appointed Sens. Green, Johnson and Below.

**HB 1282**, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

The President appointed Sens. Flanders, Prescott and Cohen.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

The President appointed Sens. Prescott, Green and Estabrook.

**HB 1348-FN**, relative to registration of business organizations.

The President appointed Sens. Clegg, Peterson and Foster.

**HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

The President appointed Sens. Peterson, Roberge and Foster.

**HB 1401-FN**, limiting the use of traffic signal preemption devices.

The President appointed Sens. Flanders, Barnes and Below.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

The President appointed Sens. Flanders, Barnes and Below.

**HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

The President appointed Sens. Prescott, O'Hearn and D'Allesandro.

## RECESS

(Rep. Patten in the Chair)

## SENATE MESSAGE

### ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

**HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

The President appointed Sens. Roberge, Morse and Larsen.

## RECESS

(Rep. Paul LaFlamme in the Chair)

## ENROLLED BILL AMENDMENTS

**HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones.

### Amendment (1530-EBA)

Amend RSA 374:22-q, I as inserted by section 2 of the bill by replacing lines 2-6 with the following: deposited moneys received pursuant to RSA 471-C:8, IV and this paragraph. The state treasurer may invest moneys in the fund as provided by law, with interest received on such investment credited to the fund. Moneys in the fund shall be nonlapsing and continually appropriated to the commission to be used only to fund the maintenance of public interest payphones. At the end of each biennium, any moneys in excess of \$30,000 shall be transferred to the general fund.

Adopted.

**HB 1312**, relative to the court's discretion to extend child support obligations.

### Amendment (1474-EBA)

Amend RSA 458:35-c as inserted by section 2 of the bill by replacing line 6 with the following: time the child support obligation, including all educational support obligations, terminates without further legal action. This amount shall remain

Amend RSA 458:16-a, III as inserted by section 3 of the bill by replacing line 3 with the following: *under 26 U.S.C. Section 529, the court may, in its discretion, preserve the account for its*

Adopted.

## RECESS

(Rep. Whalley in the Chair)

## ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled SB 427.

Rep. Francoeur, Sen. D'Allesandro for the Committee

RECESS

**(Rep. Whalley in the Chair)**

**SENATE MESSAGE**

**ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE**

***HB 1326***, establishing a study committee to examine the classification of consumer and display fireworks.

The President appointed Sens. Peterson, Clegg and Larsen.

RECESS

**(Speaker Chandler in the Chair)**

Rep. Francoeur moved that the House adjourn.

Adopted.

**HOUSE JOURNAL No. 16**

Thursday, May 13, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by Guest Chaplain, Rabbi Richard Klein of Temple Beth Jacob in Concord. The segment of the Torah, The Five Books of Moses, that we read this week in our synagogues is from the final chapters of the Book of Leviticus. It actually comprises two sections called in Hebrew *Behar* and *Bechukotai*. We would translate these titles as "On the Mountain" and "By My Statutes."

In the first, we are reminded that Moses went up to Mount Sinai to bring back God's word. In the second, we are reminded that the message Moses brought back was that we are expected to live up to God's expectations for us as human beings created in God's image.

For millennia, men and women have looked to high places to find inspiration. In many faiths, even today, mountaintops are associated with God's presence. For most of us, we tend to look upward when we think about God's presence. We use the metaphor of Heaven when we think of the Divine Presence.

Legislation from on high, from a place of respect and trust was essential to ancient Israelites. In our society, legislation and expectations must also come from a place of trust and respect. For those who have the opportunity for public service, this represents a responsibility and a privilege. Amen.

Rep. Kimberly Casey led the Pledge of Allegiance.

The National Anthem was sung by Emma Richardson, a 6<sup>th</sup> grade home-schooled student from Fitzwilliam.

**LEAVES OF ABSENCE**

Reps. Mary Allen, Allison, Julie Brown, Carlson, Clemons, Dudley, Daniel Eaton, Flanagan, Gionet, Guay, Joseph Harris, Sandra Harris, McDonough-Wallace, Moore and Weldy, the day, illness.

Reps. Barry, Bergeron, Bergin, Bishop, Clayton, Corbin, Donovan, Duffy, Dumaine, Hagan, Hall, Hallyburton, Hess, Holland, Hollinger, Hutchinson, Jones, Kopka, Leber, Malloy, McKinney, McRae, Musler, Owen, Phinizy, Reardon, Royce, Shultis, Slack, Soltani, Tate and Thomas, the day, important business.

Rep. McMahon, the day, illness in the family.

**INTRODUCTION OF GUESTS**

Ron and Emma Nickerson, guests of Rep. Irwin. Brad Wiley, son of Rep. Wiley. Alice Zolla, wife of Rep. Zolla. Caitlin Daniuk, former Representatives Donna Soucy, Nick Panagopoulos, Mike Rollo, Mike King, Chris Spirou and Rick Trombly and Wayne Buckley, guests and father of Rep. Buckley. Jack Wark, guest of Rep. DiFruscia.

**INTRODUCTION OF SPECIAL GUESTS**

The Mastricola Middle School Jazz Band Blue accompanied by Director Ron Fussell and Principal Thomas Levesque, 2004 gold medal winners for superior performance at the Heritage Music Festival in Washington, D.C., guests of the House.

**ENROLLED BILL AMENDMENTS**

**HB 326**, relative to establishing a 6-year capital budget.

**Amendment (1477-EBA)**

Amend section 2 of the bill by replacing line 2 with the following:  
the following new section:

Adopted.

**HB 729-FN**, relative to the regulation of tanning facilities.



**Amendment (1542-EBA)**

Amend section 2 of the bill by replacing line 2 with the following:

313-A:1 by inserting after paragraph XI the following new paragraphs:

Amend section 3 of the bill by replacing line 1 with the following:

3 New Paragraphs; Barbering, Cosmetology and Estheticians; Definitions Added. Amend

Amend RSA 313-A:2, I as inserted by section 4 of the bill by replacing line 5 with the following:  
*owner of a registered tanning facility* and [2] *one* public ~~[members]~~ *member*; each to be appointed

Amend RSA 313-A:26, II as inserted by section 13 of the bill by replacing line 2 with the following:  
implementation of this subdivision.

Amend RSA 313-A:26, III as inserted by section 13 of the bill by replacing line 2 with the following:  
and methods to monitor compliance with state and federal regulations.

Amend RSA 313-A:27, I as inserted by section 13 of the bill by replacing line 3 with the following:  
the United States Food and Drug Administration.

Amend RSA 313-A:28, II as inserted by section 13 of the bill by replacing line 2 with the following:  
to open or operate a tanning facility within this state shall file a registration statement annually with  
Amend RSA 313-A:31, I as inserted by section 13 of the bill by replacing lines 3-6 with the  
following:

present. Proof of age shall be satisfied with a driver's license or other government issued identification containing date of birth and a photograph of the individual. This consent requirement shall be satisfied only if the parent or legal guardian is physically present at the time of the initial use of the tanning device, and the responsible adult signs a document declaring that he or she is the parent

Amend section 14 of the bill by replacing it with the following:

14 Repeal. RSA 313-A:8, VII, relative to rulemaking authority for matters of administration, is repealed.  
Adopted.

**HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans.

**Amendment (1488-EBA)**

Amend RSA 361-A:2, I as inserted by section 3 of the bill by replacing line 3 with the following:  
*be responsible for the supervision of their employees, agents, and branch offices.* No

Amend RSA 361-A:2-b, I(b) as inserted by section 6 of the bill by replacing line 2 with the following:

report as required in subparagraph (a), notwithstanding the fact that he or she is not licensed on the  
Amend RSA 361-A:2-b, III as inserted by section 7 of the bill by replacing line 5 with the following:

*revocation of its license.*

Amend section 8 of the bill by replacing line 1 with the following:

8 Suspension or Revocation of Licenses; Procedure. Amend the introductory paragraph of RSA 361-A:3, I to read as follows:

Amend the introductory paragraph of RSA 361-A:3, I-a as inserted by section 8 of the bill by replacing line 3 with the following:

partner, officer, or director, any person occupying a similar status or performing similar functions, or  
Amend RSA 397-A:10-a, I(a) as inserted by section 14 of the bill by replacing line 3 with the following:

bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by  
Amend the introductory paragraph of RSA 397-A:17, I as inserted by section 19 of the bill by replacing lines 10-11 with the following:

registered mail at the principal office of the licensee. Delivery of such order to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee shall be deemed a  
Amend the introductory paragraph of RSA 397-A:17, I as inserted by section 19 of the bill by replacing line 24 with the following:

assess penalties or deny, suspend, or revoke a license if it is in the public interest and the applicant or

Amend RSA 397-B:6, V as inserted by section 24 of the bill by replacing line 2 with the following: partner, principal executive officer, or director of such person, every person occupying a similar  
 Amend RSA 397-B:8, I(b) as inserted by section 25 of the bill by replacing line 9 with the following: *nevertheless institute a revocation or suspension proceeding under RSA 397-B:3, VIII within*  
 Amend RSA 397-B:8, II as inserted by section 25 of the bill by replacing line 3 with the following: *RSA 397-B:6.*

Amend RSA 398-A:1-e, II as inserted by section 33 of the bill by replacing line 2 with the following: report as required in paragraph I, notwithstanding the fact that it is not licensed on the date

Amend section 34 of the bill by replacing lines 1-4 with the following:

34 License Surrender. Amend RSA 398-A:1-f to read as follows:

398-A:1-f License Surrender.

I.(a) A licensee who ceases to engage in the business of making second mortgage home loans at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license in person or by registered or  
 Amend RSA 398-A:1-f, II as inserted by section 34 of the bill by replacing line 3 with the following: *RSA 398-A:7-a.*

Amend RSA 399-A:3, I as inserted by section 38 of the bill by replacing line 12 with the following: *supervision of their employees, agents, and branch offices.* Each initial and renewal license  
 Amend RSA 399-A:6, I(b) as inserted by section 42 of the bill by replacing lines 1-2 with the following:

(b) A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in subparagraph (a), notwithstanding the fact that it is not licensed on the date

Amend RSA 399-A:21, I as inserted by section 45 of the bill by replacing line 1 with the following:

I. Each licensee shall keep and use in its business such books and accounting records as are Adopted.

## SENATE MESSAGES

### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 1228**, relative to changes to the uniform fine schedule. (Amendment printed SJ 05/06/04)  
 Rep. Mock moved that the House concur and spoke in favor.  
 Adopted.

**HB 803-FN-A-L**, relative to the establishment of municipal economic development and revitalization districts by municipalities. (Amendment printed SJ 04/15/04)  
 Rep. Patten moved that the House concur and spoke in favor.  
 Adopted.

**HB 697-FN**, relative to the sale of motor fuel. (Amendment printed SJ 04/08/04)  
 Rep. Edwin Smith moved that the House concur and spoke in favor.  
 Adopted.

**HB 1399-FN-A**, establishing the telecommunications planning and development fund. (Amendment printed SJ 05/06/04)  
 Rep. Maxfield moved that the House concur and spoke in favor.  
 Adopted.

**HB 1207-FN-A**, relative to a Global War on Terrorism operations service bonus payment. (Amendment printed SJ 05/06/04)  
 Rep. Coughlin moved that the House concur and spoke in favor.  
 Adopted.

**HB 1378-FN-A**, relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor. (Amendments printed SJ 05/06/04)  
 Rep. Coughlin moved that the House concur and spoke in favor.  
 Adopted.

**HB 264**, establishing state representative districts. (Amendments printed SJ 05/06/04)  
 Rep. Whalley moved that the House concur.  
 Rep. Vaillancourt spoke against and yielded to questions.

Rep. Whalley spoke in favor.

On a division vote, 193 members having voted in the affirmative and 120 in the negative, the motion was adopted.

**HB 640-FN**, relative to post-conviction DNA testing. (Amendment printed 04/22/04)

Rep. Welch moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Knowles, Stevens, Lasky and Holbrook.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system. (Amendments printed SJ 04/22/04 and 05/06/04)

Rep. Stephen L'Heureux moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Alger, Scott, Weyler and Snyder.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. (Amendments printed SJ 04/22/04 and 05/06/04)

Rep. O'Neil moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. O'Neil, Hall, Irwin and Robert Wheeler.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Amendments printed SJ 05/06/04)

Rep. Kurk moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Rogers Johnson, Hunt, Rodeschin and Wallner.

**HB 369**, relative to the Henniker and Hillsborough district courts. (Amendments printed SJ 4/01/04 and 05/06/04)

Rep. Mock moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Mock, Rowe, Stone and Wall.

**HB 1295**, relative to certain court records. (Amendment printed SJ 04/22/04).

Rep. Mock moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Haytayan, Mock, Rowe and Craig.

**HB 1413**, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims. (Amendment SJ 04/29/04) Rep. Mock moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Mock, Haytayan, Francoeur and Rowe.

**HB 1335-L**, establishing a commission to examine the workers' compensation system in New Hampshire. (Amendment printed SJ 04/08/04)

Rep. Gilman moved that the House nonconcur and request a Committee of Conference.

Reps. Barody and DiFruscia spoke against.

Reps. Gilman and Slocum spoke in favor.

Adopted.

The Speaker appointed Reps. Giuda, Hunt, Mears and Slocum.

Rep. Pitts declared a conflict of interest and did not participate.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration. (Amendments printed SJ 05/06/04)

Rep. Patten moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Stohl, Gillick, Patten and Theberge.

**HB 618-FN-A**, making technical corrections to certain local property tax laws. (Amendments printed SJ 3/17/04 and 05/06/04)

Rep. Patten moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Patten, Lockwood, Letourneau and Theberge.

**HB 698-FN**, relative to electronic toll collection. (Amendment printed SJ 04/22/04)

Reps Edwin Smith and Kurk moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Graham, McConkey, Malloy and Weyler.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. (Amendment printed SJ 05/06/04)

Rep. Edwin Smith moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Edwin Smith, Rausch, Cloutier and Holland.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning. (Amendment printed SJ 05/06/04)

Rep. Lawton moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Lawton, Royce, Russell and Brueggemann.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district. (Amendments printed SJ 05/06/04)

Rep. Major moved that the House nonconcur and request a Committee of Conference.

Adopted.

The Speaker appointed Reps. Major, Vivian Clark, Jasper and Almy.

## NONCONCURS WITH AMENDMENTS

### REQUESTS COMMITTEE OF CONFERENCE

**SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

The President appointed Sens. Roberge, Gallus and Foster.

Rep. Moran moved that the House accede.

Adopted.

The Speaker appointed Reps. Moran, Gile, Gargas and Itse.

**SB 461**, relative to the regulation of gift certificates under the consumer protection act.

The President appointed Sens. Roberge, Morse and Larsen.

Rep. Hunt moved that the House accede.

Adopted.

The Speaker appointed Reps. Hunt, Stepanek, Spiess and Kopka.

**SB 500-FN**, relative to certain procedures of financial institutions.

The President appointed Sens. Flanders, Odell and Foster.

Rep. Hunt moved that the House accede.

Adopted.

The Speaker appointed Reps. Hunt, Spiess, Meader and Stepanek.

**SB 478-FN**, relative to penalties for DWI offenses.

The President appointed Sens. Barnes, Clegg and Eaton.

Rep. Welch moved that the House accede.

Adopted.

The Speaker appointed Reps. Tholl, Welch, Nedeau and Pantelakos.

**SB 521-FN**, increasing the penalty for identity fraud.

The President appointed Sens. Peterson, Green and Larsen.

Rep. Welch moved that the House accede.

Adopted.

The Speaker appointed Reps. Stevens, Fish, Karl Gilbert and Movsesian.

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

The President appointed Sens. O'Hearn, Johnson and Gatsas.

Rep. Stephen L'Heureux moved that the House accede.

Adopted.

The Speaker appointed Reps. Stephen L'Heureux, Alger, Carson and J. Timothy Dunn.

**SB 421**, relative to charter schools.

The President appointed Sens. O'Hearn, Green and Estabrook.

Rep. Stephen L'Heureux moved that the House accede.

Adopted.

The Speaker appointed Reps. Mark Carter, Naro, Alger and J. Timothy Dunn.

**SB 490-FN**, relative to the Help America Vote Act.

The President appointed Sens. Boyce, Martel and Larsen.

Rep. Whalley moved that the House accede.

Adopted.

The Speaker appointed Reps. Drisko, Vaillancourt, Dorsett and Buckley.

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board.

The President appointed Sens. Johnson, Odell and Below.

Rep. Babson moved that the House accede.

Adopted.

The Speaker appointed Reps. Ahern, Williams, Owen and Cernota.

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay.

The President appointed Sens. Prescott, Green and Cohen.

Rep. Babson moved that the House accede.

Adopted.

The Speaker appointed Reps. Ahern, Philbrick, Williams and Rous.

**SB 153**, adopting the nurse licensure compact.

The President appointed Sens. Martel, Peterson and D'Allesandro.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. Paul LaFlamme, Dexter, Nelson Allan and Pilotte.

**SB 199**, revising the nurse practice act.

The President appointed Sens. Peterson, O'Hearn and Below.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. Paul LaFlamme, O'Neil, Dexter and Schulze.

**SB 312-FN**, establishing a state code of ethics.

The President appointed Sens. Barnes, Sapareto and Larsen.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. O'Neil, Hamel, Drisko and Francis Sullivan.

**SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members.

The President appointed Sens. Green, Roberge and D'Allesandro.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. O'Neil, Hall, Irwin and Robert Wheeler.

**SB 434**, relative to importing prescription drugs from Canada.

The President appointed Sens. Martel, Gallus and Gatsas.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. Bergin, Hamel, Paul LaFlamme and Irwin.

**SB 459**, making certain changes to the real estate practice act.

The President appointed Sens. Gallus, Roberge and Peterson.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. Paul LaFlamme, Fitzgerald, Carl Robertson and Francis Sullivan.

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies.

The President appointed Sens. Clegg, Prescott and D'Allesandro.

Rep. O'Neil moved that the House accede.

Adopted.

The Speaker appointed Reps. O'Neil, Stone, Robert Wheeler and Francis Sullivan. Alternate: Hamel.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals.

The President appointed Sens. Boyce, Gallus and D'Allesandro.

Rep. Kurk moved that the House accede.

Adopted.

The Speaker appointed Reps. Kurk, Emerton, Rogers Johnson and Wallner.

**SB 382-FN-L**, relative to medical service rates for state prisoners.

The President appointed Sens. Flanders, Boyce and Cohen.

Rep. Kurk moved that the House accede.

Adopted.

The Speaker appointed Reps. Elliott, Emerton, Rodeschin and Tholl.

**SB 109**, adopting the model Drug Dealer Liability Act.

The President appointed Sens. Prescott, Clegg and Martel.

Rep. Mock moved that the House accede.

Adopted.

The Speaker appointed Reps. Soltani, Haytayan, Craig and Knowles.

**SB 423**, relative to confidentiality and workers' compensation.

The President appointed Sens. Flanders, Clegg and Foster.

Rep. Mock moved that the House accede.

Adopted.

The Speaker appointed Reps. Phyllis Woods, Lasky, Haytayan and Rowe.

**SB 526**, relative to sexual harassment complaint procedures for public employees.

The President appointed Sens. Boyce, Odell and Larsen.

Rep. MacKay moved that the House accede.

Adopted.

The Speaker appointed Reps. MacKay, Stohl, Nelson Allan and Tilton.

**SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district election.

The President appointed Sens. Clegg, Odell and Eaton.

Rep. Patten moved that the House accede.

Adopted.

The Speaker appointed Reps. Patten, Stohl, Gillick and Theberge.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

The President appointed Sens. Roberge, Boyce and Larsen.

Rep. Patten moved that the House accede.

Adopted.

The Speaker appointed Reps. Patten, Brundige, Boyce and Nancy Johnson.

**SB 449**, relative to fluoridation of municipally-owned public water systems.

The President appointed Sens. Prescott, Johnson and D'Allesandro.

Rep. Patten moved that the House accede.

Adopted.

The Speaker appointed Reps. Brundige, Gillick, Dowd and Osborne.

**SB 508-FN**, relative to grant-funded programs.

The President appointed Sens. Flanders, Boyce and Cohen.

Rep. Patten moved that the House accede.

Adopted.

The Speaker appointed Reps. Stohl, Lockwood, Boyce and Nancy Johnson.

**SB 533**, relative to licensing requirements for certain recreation and child care programs.

The President appointed Sens. Johnson, Martel and Estabrook.

Rep. Patten moved that the House accede.

Adopted.

The Speaker appointed Reps. Brundige, Twombly, Dowd and Schmidt.

**SB 381**, relative to the transfer of certain capital appropriations within the department of safety.

The President appointed Sens. Clegg, Morse and D'Allesandro.

Rep. Edwin Smith moved that the House accede.

Adopted.

The Speaker appointed Reps. Rausch, Waterhouse, Candace Bouchard and Edwin Smith.

**SB 413-FN**, relative to financing federally aided highway projects.

The President appointed Sens. Clegg, Morse and D'Allesandro.

Rep. Edwin Smith moved that the House accede.

Adopted.

The Speaker appointed Reps. Graham, McConkey, Cloutier and Waterhouse.

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

The President appointed Sens. Johnson, Gatsas and Estabrook.

Rep. Major moved that the House accede.

Adopted.

The Speaker appointed Reps. Jasper, Gibson, Roessner and Christine Hamm.

### REQUESTS CONCURRENCE WITH AMENDMENTS

**HB 85-FN-L**, relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting. (Amendment printed SJ 04/29/04)

Rep. Patten moved that the House nonconcur and spoke in favor.

Adopted.

**HB 1188**, relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan. (Amendments printed SJ 05/06/04)

Reps. Stephen L'Heureux and Kurk moved that the House nonconcur and spoke in favor.

Adopted.

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 730, 1221, 1224, 1243, 1298, 1422, House Joint Resolution numbered 26, and Senate Bills numbered 352, 465, 504 and Senate Joint Resolution numbered 2.

Rep. Letourneau, Sen. D'Allesandro for the Committee

### PERSONAL PRIVILEGE

Rep. Baroody addressed the House.

### UNANIMOUS CONSENT

Rep. Buckley addressed the House.

Rep. Burling moved that Rep. Buckley's remarks be printed in the Journal.

Adopted.

### REMARKS

Rep. Buckley: Thank you, Mr. Speaker. It amazes me that it has been 35 years since I first walked through that very door and I stood here for the first time in this historic chamber. I was on tour of

the State House with my 4<sup>th</sup> grade class. As I stood here dressed in my Cub Scout uniform, I was awestruck. I looked around and saw the 400 seats and I was overwhelmed by the idea that 400 individuals from across the state, from all walks of life, gathered here to do the people's business. They all gathered under one roof, all dedicated to the common purpose of improving the lives of New Hampshire's people. It's no exaggeration to say that it was love at first sight. From that moment on, being part of the New Hampshire House of Representatives was my childhood obsession and my life's passion.

Mr. Speaker, six years later, for the first time, I spoke from this very podium. I stood here as a high school sophomore testifying before a packed hall during a special House hearing that was conducted in the evening and it was broadcast live on Channel 11. It was a thrill for a 15-year old to get a mere sense of what it was like to actually be here.

Mr. Speaker, it was 25 years ago that I joined the staff of the House Democratic leadership. And, Mr. Speaker, it was 18 years ago that, thanks to the good people of Manchester's Ward 8, I began my own legislative career.

Mr. Speaker, this has been a wonderful experience and a wonderful journey, but a journey that will come to an end this fall. Mr. Speaker, I will not seek another term as a member of this House. As I stand here today, I am so very grateful. I'm first and foremost grateful to the voters of Ward 8 who have trusted me with their vote since 1986. And, as I like to say with pride, Ward 8 is the home of Manchester Airport, the Mall of New Hampshire, South Willow Street, the Manchester Post Office, our wastewater treatment plant, our first industrial park, seven schools and 9,000 of the hardest working, proudest families you can ever find in America.

Mr. Speaker, I am grateful to my many Manchester colleagues. Over the years we may have been divided by party but we have always been united by the common cause and our shared dedication to our home city. I cherish the respect that so many of my colleagues from Manchester have afforded me since my very first day here.

Mr. Speaker, I am grateful to the Democratic Caucus. I've served you to the best of my abilities and with all my heart, whether as a member of the staff, as a ranking Democrat on a committee, as the Deputy Leader or for the past six years as the Democratic Whip. The New Hampshire House Democratic Caucus truly represents the very best of New Hampshire. It is my life's disappointment that I did not get to serve during the time when you are in the majority. Over the decades, it has been often said that, in the House, the Republicans may have the gavel but it's the Democrats who do the work. I am confident that you will do a magnificent job for the people when you do have that opportunity to wield the gavel. I look forward to that day and I am proud to have been among you all these years.

Mr. Speaker, I am grateful to the many Republicans that I came to know and respect. Some of the brightest, most talented and hardest working people I have ever met in my life have been House Republicans. I am honored to have served with them.

Mr. Speaker, over the past 25 years there have been seven Governors, six Speakers and four Democratic Leaders of the House. I am grateful for the opportunity to work with each of them but I could not possibly stand here today without specifically expressing my appreciation to four very special people. To former House Democratic Leader Chris Spirou, who hired me as a teenager and schooled me in the art of politics, I owe everything to him. I hope that my time here has honored his legacy and I am honored by his presence in the House gallery today. Thank you, Chris.

To former House Democratic Leader Mary Chambers, who's home today babysitting her new grandchild, who encouraged me and entrusted me with great responsibilities during my first two terms here. She continues to serve as a role model to so many. Thank you, Mary.

To former House Democratic Leader Rick Trombly, my friend, confidant and co-conspirator. I appreciate his confidence in me. Serving as his Deputy gave me a deep appreciation for the job of Batman's Robin, the Lone Ranger's Tonto and for anyone who has served as Vice President of the United States. He taught me much and I deeply appreciate that he is here in the gallery for me today. Thank you, Ricky.

To House Democratic Leader Peter Burling, despite that difficult and painful race in '96, it was little more than a year later when we joined together to work as a tremendously successful team. He did not have to invite me to be part of his leadership team but I am grateful that he did. His leadership has brought so much success to the causes that we all hold so dear. His leadership will have a lasting impact on New Hampshire for generations. I will be forever grateful for being able to work by his side these past seven years. Thank you, Pete.



For thirty years, Leaders Spirou, Chambers, Trombly and Burling have fought the good fight and held their heads high and they would have made damn good Speakers. Mr. Speaker, this state and this House are all better for their service. I am honored to have served with each of them.

And Mr. Speaker, as a former member of the House staff, I am particularly grateful for the tremendous job that all of our workers do to make this legislature function. They each deserve so much more praise than we ever give them.

Mr. Speaker, As I look back at the committees I have served — Commerce, Legislative Administration, Appropriations, Public Works, Economic Development, Redistricting, (ok, let's not look back on that) eight years on Election Law and ten on Rules...I have always understood that it is impossible to be an effective member of this House if your committee work doesn't come first. I hope that I have upheld that standard. And I am proud to have served with some of the finest committee chairs this House has ever had.

Mr. Speaker, as I look back at the nearly 2,500 roll call votes that I have cast as a member of this House, I am proud of two things. First, that for nearly all of my years I never missed a single vote and secondly, that I always put the people of Manchester first. I am proud that my record is one of delivering for the people of my city. I am proud that I have sponsored and supported legislation that has brought back to Manchester over \$300,000,000. From water treatment grants, to landfill grants, to guaranteeing the city's airport bonds, to education funding and on and on.

Mr. Speaker, as I look back to the over 150 bills that I have sponsored I am proud of my many successes. I successfully sponsored legislation that repealed the hospital rooms and meals tax, toughened the child support laws, and passed a multitude of anti tobacco legislation. I passed legislation for public employee retirees, for our firefighters and law enforcement officers, I passed laws dealing with protecting children from guns, the school anti-bullying law and laws on sexual assault. I passed laws that reformed workers comp, improved education laws and brought us all the opportunity to purchase Powerball.

And my 1999 bill that successfully repealed the ban on gay adoption and foster care makes me very proud, and for that success I was named "Legislator of the Year" by the state's social workers. I was even called "one of the most effective members of this body" by my local paper. Can you believe that?

Mr. Speaker, I speak today regarding this abbreviated list of my achievements not to brag, but to serve as a hopeful example. Mr. Speaker, most of the bills I mentioned were cosponsored by members of the majority party. I understand that every bit of my success here has been due to working with members of the majority party. Mr. Speaker, it is my hope for those of you who will be here next term that you will keep in mind that by working together, by setting aside the harsh partisanship, the personal animosity, that so much more can be accomplished and your experience here will be more worthwhile.

Mr. Speaker, what first attracted me, and for so many years sustained me, to this, the "People's House," was the concept that we are all equals here. That we all gather here to learn, to share experiences and to work. Each member offering their talents to do their very best to make New Hampshire an even better place. Years ago, I used to marvel at the true friendships, the camaraderie, the respect, that existed among the legislators.

Mr. Speaker, why does that no longer appear to be true? And Mr. Speaker, first and foremost was always, was always that the House as an institution must be respected at all times. Each legislator's behavior was governed by the unwritten law that no one should bring disrespect to this institution. Mr. Speaker, whether it was in committee, or in the hallway or on this floor, protecting one's reputation for truthfulness, for knowing your facts, for respecting your colleagues no matter how great the differences, for never acting in a manner as to insult this great institution, those were all rules that were never broken by any person wishing to be an effective, respected member of this body. Mr. Speaker, no serious legislator would dare mislead a colleague or stand here on the floor of the House and lie, or hide facts or ridicule a fellow member. The response to such behavior used to be an immediate loss of respect by this entire body. One lie and you were never trusted again, one broken promise and your word was worthless.

Mr. Speaker, I hope that someday this House can return to such a time again. We were a better House and the people were better served in those days. I have great faith that the membership of this House will some day have the will to demand that such an honor code exist once again and when that happens it will be a great day for New Hampshire.

Mr. Speaker, I am so grateful that over these years I've had a loving, nurturing and supportive family. Their support and understanding has made my service here an even better experience. I want to thank them and specifically express my appreciation to my Dad who's in the gallery today.

Mr. Speaker, I came to this House to make a difference, to make New Hampshire a better state. I leave, after all these years, with the satisfaction that I did my very best and kept true to myself.

Mr. Speaker, although in December I will no longer be here as a member, please be assured that my heart will always be in this great historic chamber.

Mr. Speaker, members of the House, both past and present, thank you for making my childhood dreams come true.

I bid a grateful good bye. Thank you.

### SENATE MESSAGE

### NONCONCURS WITH AMENDMENTS

### REQUESTS COMMITTEE OF CONFERENCE

**SB 302-FN-L**, making technical corrections to the education funding formula.

The President appointed Sens Clegg, Morse and D'Allesandro.

Rep. Kurk moved that the House accede.

Adopted.

The Speaker appointed Reps. Whalley, Kurk, King and Marjorie Smith. Alternates: Chandler and Major.

### RECESS MOTION

Rep. Guida moved that the House stand in recess for the purposes of receiving enrolled bill amendments, enrolled bill reports, and Senate messages.

Adopted.

The House recessed at 12:20 p.m.

### RECESS

(Rep. Francoeur in the Chair)

### SENATE MESSAGES

### ACCEDES TO REQUESTS FOR COMMITTEE OF CONFERENCE

**HB 369**, relative to the Henniker and Hillsborough district courts.

The President appointed Sens. Prescott, Flanders and Foster.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

The President appointed Sens. Green, Barnes and Larsen.

**HB 618-FN-A**, making technical corrections to certain local property tax laws.

The President appointed Sens. Johnson, Gallus and D'Allesandro.

**HB 640-FN**, relative to post-conviction DNA testing.

The President appointed Sens. Peterson, Sapareto and Foster.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

The President appointed Sens. Green, Roberge and D'Allesandro.

**HB 698-FN**, relative to electronic toll collection.

The President appointed Sens. Kenney, Morse and Below.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system.

The President appointed Sens. Green, Flanders and O'Hearn.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

The President appointed Sens. Johnson, Prescott and Below.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

The President appointed Sens. Eaton, Kenney and Below.

**HB 1295**, relative to certain court records.

The President appointed Sens. Roberge, Odell and Clegg.

**HB 1335-L**, establishing a commission to examine the workers' compensation system in New Hampshire.

The President appointed Sens. Flanders, Gatsas and Gallus.

**HB 1413**, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

The President appointed Sens. Gallus, Barnes and Estabrook.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

The President appointed Sens. Barnes, Roberge and Foster.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

The President appointed Sens. Clegg, Morse and D'Allesandro.

## RECESS

(Speaker Chandler in the Chair)

### CONFEREES CHANGES

**SB 434**, relative to importing prescription drugs from Canada.

Rep. Paul LaFlamme first-named conferee.

Rep. Nelson Allan replaced Rep. Bergin.

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

Rep. Ingram replaced Rep. Roessner.

**SB 526**, relative to sexual harassment complaint procedures for public employees.

Rep. Shawn Jasper appointed as an alternate.

**SB 459**, making certain changes to the real estate practice act.

Rep. Hamel replaced Rep. Carl Robertson.

(Rep. Mock in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 1226, 1230, 1302 and 1312.

Rep. Currier, Sen. D'Allesandro for the Committee

### ENROLLED BILL AMENDMENTS

**HB 230**, establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.

#### Amendment (1550-EBA)

Amend paragraph I of section 2 of the bill by replacing line 5 with the following:  
committee, and one member of the joint legislative committee on administrative rules.

Amend paragraph V of section 3 of the bill by replacing line 1 with the following:

V. Developing an RSA 541-A training program for members newly appointed to the joint Adopted.

**HB 1183**, relative to transporting manufactured housing or modular buildings.

**Amendment (1547-EBA)**

Amend RSA 266:24-c as inserted by section 5 of the bill by replacing line 1 with the following:  
266:24-c Manufactured Housing and Modular Buildings; State Liability Limited. The state shall not be liable for damage caused by negligent conduct of the person.  
Adopted.

**HB 1299**, relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.

**Amendment (1546-EBA)**

Amend section 3 of the bill by replacing lines 1-3 with the following:  
3 New Section; Candidate Notification to Selectmen. Amend RSA 669 by inserting after section 17-b the following new section:  
669:17-c Candidate Notification to Selectmen. Any person who has been removed from any  
Adopted.

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation.

**Amendment (1551-EBA)**

Amend the second paragraph after the title by replacing line 2 with the following:  
committee that Tra 601.15 conflicts with federal statutes, 23 U.S.C. Sections 109(d) and 402(a),  
and  
Adopted.

**SB 368**, relative to reinsurance. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 371**, relative to certain technical changes in the insurance laws. (Amendment printed SJ 5/06/04)  
Adopted.

**SB 375**, relative to the regulation of physician assistants. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 383-FN**, relative to pharmacy benefit management. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem.  
(Amendment printed SJ 05/06/04)  
Adopted.

**SB 409-FN**, revising the vocational school licensing statutes. (Amendment printed SJ 5/06/04)  
Adopted.

**SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 442**, relative to manufactured housing installation standards. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 448-FN**, relative to consumer guaranty contracts. (Amendment printed SJ 05/25/04)  
Adopted.

**SB 503-FN-L**, establishing a commission to study the benefit of municipalities using bonds for construction, development, improvement, and acquisition of broadband facilities. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 530**, relative to the duties of public safety responders and the expeditious clearance of a roadway. (Amendment printed SJ 05/06/04)  
Adopted.

## RECESS

(Rep. Nordgren in the Chair)

### ENROLLED BILL AMENDMENTS

**SB 498-FN**, relative to the regulation of debt adjustment services. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 366-FN**, relative to the Interstate Insurance Product Compact. (Amendment printed SJ 05/06/04)  
Adopted.

**SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004. (Amendment printed SJ 05/06/04)  
Adopted.

## RECESS

(Speaker Chandler in the Chair)

### CONFEREE CHANGES

**HB 618-FN-A**, making technical corrections to certain local property tax laws.  
Rep. Gillick replaced Rep. Lockwood.

**SB 109**, adopting the model Drug Dealer Liability Act.  
Rep. Haytayan replaced Rep. Soltani as first-named appointee.  
Rep. Woods replaced Rep. Soltani.

**SB 521-FN**, increasing the penalty for identity fraud.  
Rep. Bemis replaced Rep. Stevens.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.  
Rep. Graham replaced Rep. Cloutier.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system.  
Rep. J. Timothy Dunn replaced Rep. Snyder.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.  
Rep. Whalley replaced Rep. Hall.

**SB 302-FN-L**, making technical corrections to the education funding formula.  
Rep. Major replaced Rep. King.  
Rep. Lasky replaced Rep. Marjorie Smith.

(Rep. Major in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 326, 729, 1320, and Senate Bills numbered 99, 207, 301, 303, 314, 316, 324, 329, 333, 342, 344, 348, 351, 355, 357, 359, 369, 370, 388, 392, 397, 402, 418, 430, 432, 436, 439, 441, 443, 445, 470, 487, 494, 495, 496, 509, 511, 520 and 531.

Rep. Currier, Sen. D'Allesandro for the Committee

## RECESS

**(Rep. Rogers Johnson in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 230, 264, 803, 1183, 1228, 1299, 1399, House Joint Resolution numbered 25 and Senate Bills numbered 368, 371, 383, 386, 409, 442, 503 and 530.

Rep. Currier, Sen. D'Allesandro for the Committee

RECESS

**(Rep. Graham in the Chair)**

**ENROLLED BILL AMENDMENTS**

**HB 697-FN**, relative to the sale of motor fuel.

**Amendment (1615-EBA)**

Amend RSA 260:52-d, II as inserted by section 9 of the bill by replacing line 5 with the following: fuel will be consumed in a highway use.

Amend RSA 260:42, VII as inserted by section 13 of the bill by replacing line 1 with the following:

VII. The commissioner is authorized to waive any *civil* penalty and interest when it is Adopted.

**SB 406**, relative to adoption procedures. (Amendment printed SJ 05/25/04)

Adopted.

RECESS

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.

## HOUSE JOURNAL No. 17

Tuesday, May 25, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

His Excellency, Governor Craig Benson, joined the Speaker on the rostrum for the day's opening ceremonies.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

O God of all, we know that today there are men and women who are placing their lives in harm's way to protect the freedom that we share in this honorable House. We pray for their strength, safety, and swift return home, and we pray for their loved ones who eagerly await them.

We also pray that Your guidance and wisdom will dwell in this place as our elected leaders make difficult decisions on behalf of all the citizens of our beloved New Hampshire. May each Representative be given the necessary courage, wisdom, and spirit of fairness that honors those who place their lives at risk for us.

We pray this knowing that future generations will remember us not only for what is done today, but also more importantly by the path that brings this House to its decisions of leadership. Amen.

Rep. James M. Fitzgerald led the Pledge of Allegiance.

The National Anthem was sung by Janet Schmitt, a sophomore at Lebanon High School.

### LEAVES OF ABSENCE

Reps. Flanagan, Joseph Harris, Sandra Harris, Moore and Pitts, the day, illness.

Reps. Bishop, Bleyler, Carolyn Brown, Daniels, Hollinger, Robert Laflam, Lawrence, Malloy, John Manning, Rollo, Edwin Smith, Stevens, Tate and Woodward, the day, important business.

Reps. Hallyburton, Hofemann, Robert L'Heureux and Kathleen Taylor, the day, illness in the family.

### INTRODUCTION OF GUESTS

Darrell Brown and Almir Culum, guests of Rep. Naro. Evelyn Brundige, wife of Rep. Brundige. Susan Schmitt, mother of today's singer and Dan Signor, guests of the Lebanon delegation. Susan Ticehurst and Eric Dube, guests of Rep. Babson. Pembroke Red Hat Society and former Representative Janet Fortnam, guests of Rep. Rush. Mary Beth Walz, guest of Rep. Hamm. Souhegan High School Boys Basketball Team, 2<sup>nd</sup> year state champions, guests of the House.

### PRESENTATION OF OWLS SCHOLARSHIP

Rep. Price introduced Gina Bonafede, a student of respiratory therapy at New Hampshire Community Technical College in Claremont, the recipient of the 2003-2004 Education Scholarship Award, presented by the New Hampshire Order of Women Legislators. She joined the Speaker on the rostrum and was presented with the OWLs scholarship check by the Speaker.

The House of Representatives offered the following:

### HOUSE RESOLUTION 26

Memorializing State Representative Paul R. Hatch of Wolfeboro

WHEREAS, we have learned with great sorrow of the death of our friend and colleague Paul R. Hatch of Wolfeboro, who was serving his first term as a member of the House of Representatives; and, WHEREAS, Paul R. Hatch was a valued member of the Committee on Science, Technology and Energy during his House tenure, ably serving as co-chairman of the Electric Subcommittee and as a member of the Cable Subcommittee and also represented the House on the Information Technology Management Advisory Board and the Electric Utility Restructuring Oversight Committee; and WHEREAS, a veteran of the Korean Conflict, Paul Hatch served in the United States Army Security Agency, and was trained in electronic warfare countermeasures; and WHEREAS, Paul R. Hatch served the State of New Hampshire in a myriad of ways, including Executive Director of the Greyhound Racing Commission, member of the Commission on the Arts, and member of the advisory commission to the Department of Resources and Economic Development; and

WHEREAS, having been born in Wolfeboro, Paul R. Hatch gave lifelong service to his community through twenty-five years as a member of the Board of Selectmen, membership on the budget committee, participation in the Chamber of Commerce and as President of Wolfeboro Community Television; now, therefore, be it

RESOLVED, by the House of Representatives in Regular Session convened, that Paul R. Hatch be granted the highest praise for his dedicated service to his state, and be it further

RESOLVED, that expressions of heartfelt sympathy be extended to his family and that a suitable copy of this Resolution be prepared for presentation to them.

Unanimously adopted by a rising vote.

### AMENDMENT TO HOUSE RULES

The Rules Committee offered the following:

Amend House Rule 64 by adding:

Monday, September 20, 2004

First day for incumbents running for re-election to file LSRs with complete information.

Friday, October 8, 2004

Last day for incumbents running for re-election to file LSRs with complete information.

Monday, November 1, 2004

Last day to file 2004 Interim Study reports.

Wednesday, November 10, 2004

First day for all representatives-elect to file LSRs with complete information. 15-day sign off period begins.

Wednesday, December 8, 2004, 3:00 p.m.

Last day for all representatives-elect to file LSRs with complete information.

Reps. Hess and Burling moved adoption of the amendment to House Rule 64 and spoke in favor. Adopted.

### AMENDMENTS TO ETHICS GUIDELINES

#### 3 LEGISLATOR'S FINANCIAL DISCLOSURE FORM.

Amend the introductory paragraph to read as follows:

Every representative, [~~representative-elect;~~] senator, [~~senator-elect;~~] and officer of the House and Senate, shall file with the [~~Secretary of State~~] *Legislative Ethics Committee* the following financial disclosure form on or before January 31 of each year.

Amend the last paragraph to read as follows:

Complete and return to the [~~Office of Secretary of State~~] *Legislative Ethics Committee* no later than January 31, \_\_\_\_\_

#### 4 PROHIBITED ACTIVITIES.

I. Legislators shall not solicit, accept, or agree to accept anything of value from another for themselves or other persons, if the legislator receives such thing of value:

(a) Knowing or believing the other's purpose to be the influencing of an action, decision, opinion, recommendation, or other official activity.

(b) Knowing or believing that the giver is or is likely to become subject to or interested in any matter or action pending before or contemplated by the giver or another member of the legislature.

(c) In return for advice or other assistance relating to a legislator's official activities.

(d) In return for introducing legislation, testifying before any legislative committee or state agency, voting in committee or in House or Senate session, or otherwise participating in, influencing, or attempting to influence any decision of the legislature, county delegation or any state agency.

(e) In return for an endorsement, nomination, appointment, approval or disapproval of any person for a position as, or advancement of, a public servant.

(f) In return for having given a decision, opinion, recommendation, nomination, vote, or other official activity.

II. [~~In dealing with state agencies;~~] /t/ Legislators shall not:

(a) [~~Provide~~] *Reveal* information [~~about a state agency~~] which the legislator has obtained confidentially in the course of his official activities.

(b) Reveal information about state agency operations or decisions which the legislator would not reveal to any member of the general public requesting such information.



(c) Threaten ~~[a state agency or its employees with]~~ reprisals or promise~~d~~ inducements of any kind to influence ~~[agency decisions]~~ *another* so as to obtain special personal benefits for the legislator, the legislator's immediate family, or for certain constituents which would not be available to others under similar conditions.

(d) Conduct private negotiations with ~~[a state]~~ *any governmental* agency in an attempt to obtain a decision on a pending matter which would result in special personal benefit to the legislator, to the legislator's immediate family, or to certain constituents which would not be available to others under similar conditions.

III. Legislators shall not use their public position or office to obtain anything of value for the private benefit of the legislator or the legislator's immediate family.

**VI. Legislators shall not engage in conduct that constitutes sexual harassment as defined in RSA 14-B:1.**

~~[VI:] VII.~~

Rep. Jasper moved adoption of the amendment to Ethics Guidelines, Sections 3 and 4 and spoke in favor.

Adopted.

### SUSPENSION OF RULES

Reps. Hess and Burling moved that the Rules be so far suspended as to permit reporting and consideration after the deadline of **SJR 3**, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance.

Adopted by the necessary two-thirds.

### CONSIDERATION OF SJR 3

**SJR 3**, urging the United States Supreme Court to retain the words "under God" in the pledge of allegiance. **REFER FOR INTERIM STUDY**

Rep. Robert H. Rowe for Judiciary: This Resolution urges the Supreme Court and each of the justices to retain the words "Under God" in the Pledge of Allegiance. The committee was nearly unanimous in its strong support of the Joint Resolution. However, the wording of the resolution, it's timing, and the action directed by the resolution presented serious problems. The resolution was enacted by the Senate without a public hearing and in a time frame that did not allow the House to study the matter and make appropriate changes. A strong majority of the Judiciary Committee felt that it is inappropriate to influence the court after a case is closed and under advisement. This case has already been heard by the Supreme Court. Further, the resolution requires the resolution to be sent to individual justices in addition to the court clerk. This is inappropriate as an attempt to influence an individual judge and consequently the results of the case. This could be considered as an unethical and possibly unlawful influence. Vote 12-3.

Rep. Mock spoke in favor.

Adopted.

### CONSENT CALENDAR

#### COMMITTEE OF CONFERENCE REPORTS ON SENATE BILLS

Rep. Hess moved that the Consent Calendar of Committee of Conference Reports on Senate Bills, as printed and distributed, be adopted.

**SB 478-FN**, relative to penalties for DWI offenses, removed by Rep. Vaillancourt.

Consent Calendar adopted.

#### COMMITTEE OF CONFERENCE REPORT ON SB 153

Committee of Conference on **SB 153**, adopting the nurse licensure compact.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees: Sens. Martel, Dist. 18; Peterson, Dist. 11; and D'Allesandro, Dist. 20

Conferees: Reps. P. LaFlamme, Hills. 61; Dexter, Ches. 27; N. Allan, Hills. 63; and Pilotte, Hills. 55

#### COMMITTEE OF CONFERENCE REPORT ON SB 317

Committee of Conference on **SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board.

## Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Johnson, Dist. 2; Odell, Dist. 8; and Below, Dist. 5;

Conferees: Reps. Ahern, Belk. 29; Williams, Graf. 16; Owen, Merr. 34; and Cernota, Hills. 65

### COMMITTEE OF CONFERENCE REPORT ON SB 381

Committee of Conference on **SB 381**, relative to the transfer of certain capital appropriations within the department of safety.

## Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Capital Budget; Department of Safety; Highway Fund Projects; Transfers Authorized. Amend 2003, 240:3, I to read as follows:

## I. Department of Safety.

A. Finish Second Floor of DMV Building – Hazen Drive	\$ 370,000
B. Addition to DMV Building on Hazen Drive – Design/Build	3,900,000
C. Lab Expansion	167,400
D. Finish Troop D First Floor	589,000
Less Other	- 111,910

Net state appropriation subparagraph D	477,090
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<b>E. Emergency Operations Center/Transportation Management Center</b>	<b>9,164,503</b>
<b>Less Federal</b>	<b>-9,164,503</b>

<b>Net state appropriation subparagraph E</b>	<b>0</b>
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Total state appropriation paragraph I	\$ 4,914,490
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The sum appropriated in subparagraph B for the construction of the DMV Building addition shall not be spent, obligated, or encumbered until the department has received approval of the plan from the capital budget overview committee. *The emergency operations center/transportation management center in subparagraph E may be constructed using construction management procurement procedures.*

*Notwithstanding section 9 of this act, the commissioner of the department of safety may transfer the appropriations made in paragraph I, A, B, C, and D between those individual project appropriations, if needed, to complete a project.*

Conferees: Sens. Clegg, Dist. 14; Morse, Dist. 22; and D'Allesandro, Dist. 20

Conferees: Reps. Rausch, Rock. 77; Waterhouse, Rock. 76; C. Bouchard, Merr. 39; and E. Smith, Ches. 26

### COMMITTEE OF CONFERENCE REPORT ON SB 391

Committee of Conference on **SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections.

## Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Clegg, Dist. 14; Odell, Dist. 8; and Eaton, Dist. 10

Conferees: Reps. Patten, Carr. 7; Stohl, Coos. 1; Gillick, Rock. 85; and Theberge, Coos 3

### COMMITTEE OF CONFERENCE REPORT ON SB 407

Committee of Conference on **SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

## Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 40:13, XI as inserted by section 1 of the bill by replacing it with the following:

**XI.(a) The [amount of the previous year's operating budget, as adjusted pursuant to paragraph X-] default budget shall be disclosed [to the voters at the first session] at the first budget hearing held pursuant to RSA 32:5 or RSA 197:6. The governing body, unless the provisions of RSA 40:14-b are adopted, shall complete a default budget form created by the department of revenue administration to demonstrate how the default budget amount was calculated. The form and associated calculations shall, at a minimum, include the following:**

- (1) Appropriations contained in the previous year's operating budget;**
- (2) Reductions and increases to the previous year's operating budget; and**
- (3) One-time expenditures as defined under sub-paragraph IX(b).**

**(b) This amount shall not be amended by the legislative body. However, this amount may be adjusted by the governing body, unless the provisions of RSA 40:14-b are adopted, acting on relevant new information at any time before the ballots are printed, provided the governing body, unless the provisions of RSA 40:14-b are adopted, completes an amended default budget form.**

**(c) The wording of the second session ballot question concerning the operating budget shall be as follows:**

**"Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$\_\_\_\_\_? Should this article be defeated, the [operating] default budget shall be \$\_\_\_\_\_, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only."**

Amend RSA 40:14-b, II(b)-(c) as inserted by section 3 of the bill by replacing it with the following:

**(b) If the vote is taken after the adoption of RSA 40:13, the question shall be placed on the warrant of the annual meeting by the governing body or by petition under the procedures set out in RSA 39:3 or RSA 197:6 and shall not be amended. A public hearing on the question shall be held by the local governing body following the procedures in RSA 40:14, IV. A vote to adopt the question shall conform with RSA 40:14, VI.**

**(c) The wording of the question shall be: "Shall we adopt the provisions of RSA 40:14-b to delegate the determination of the default budget to the municipal budget committee which has been adopted under RSA 32:14?"**

Amend RSA 40:14-b, III as inserted by section 3 of the bill by replacing it with the following:

**III. The provisions of this section may be rescinded following the procedures set out in RSA 40:14, VII, except that the wording of the question, which shall not be amended, shall be: "Shall we rescind the provisions of RSA 40:14-b, as adopted by the (local political subdivision) on (date of adoption), so that the default budget will be determined by the governing body instead of the budget committee?"**

Conferees: Sens. Roberge, Dist. 9; Boyce, Dist. 4; and Larsen, Dist. 15

Conferees: Reps. Patten, Carr. 7; Brundige, Hills. 58; Boyce, Belk. 31; and N. Johnson, Straff. 68

### **COMMITTEE OF CONFERENCE REPORT ON SB 413**

Committee of Conference on **SB 413-FN**, relative to financing federally aided highway projects.  
Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Clegg, Dist. 14; Morse, Dist. 22; and D'Allesandro, Dist. 20

Conferees: Reps. Graham, Hills. 57; McConkey, Carr. 6; Cloutier, Sull. 22; and Waterhouse, Rock. 76

### **COMMITTEE OF CONFERENCE REPORT ON SB 415**

Committee of Conference on **SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Roberge, Dist. 9; Gallus, Dist. 1; and Foster, Dist. 13

Conferees: Reps. Moran, Hills. 57; Gile, Merr. 38; Gargasz, Hills. 46; and Itse, Rock. 80

**COMMITTEE OF CONFERENCE REPORT ON SB 453**

Committee of Conference on **SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Johnson, Dist. 2; Flanders, Dist. 7; and Estabrook, Dist. 21

Conferees: Reps. Jasper, Hills. 66; Gibson, Hills. 58; Ingram, Rock. 76; and C. Hamm, Merr. 34

**COMMITTEE OF CONFERENCE REPORT ON SB 459**

Committee of Conference on **SB 459**, making certain changes to the real estate practice act.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after section 6 with the following:

7 New Paragraph; Prohibited Conduct. Amend RSA 331-A:26 by inserting after paragraph XXXVII the following new paragraph:

XXXVIII. Submitting a property owner's name to any electronic database or multiple listing service that may be accessed by any other person other than the property owner's broker without the express written permission of the property owner.

8 Effective Date.

I. Section 7 of this act shall take effect January 1, 2005.

II. The remainder of this act shall take effect 60 days after its passage.

Conferees: Sens. Gallus, Dist. 1; Roberge, Dist. 9; and Peterson, Dist. 11

Conferees: Reps. P. LaFlamme, Hills. 61; Fitzgerald, Belk. 30; F. Sullivan, Hills. 52; and Hamel, Rock. 79

**COMMITTEE OF CONFERENCE REPORT ON SB 461**

Committee of Conference on **SB 461**, relative to the regulation of gift certificates under the consumer protection act.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Roberge, Dist. 9; Morse, Dist. 22; and Larsen, Dist. 15

Conferees: Reps. Hunt, Ches. 28; Stepanek, Hills. 47; Spiess, Hills. 47; and Kopka, Hills. 63

**COMMITTEE OF CONFERENCE REPORT ON SB 500**

Committee of Conference on **SB 500-FN**, relative to certain procedures of financial institutions.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Removal by Bank Commissioner; Financial Institution. Amend RSA 384:6 to read as follows:

384:6 Removal by Bank Commissioner. Whenever, in the opinion of the bank commissioner, any officer, trustee, or director of a [savings bank, state bank, guaranty savings bank or trust com-

**pany] financial institution** shall have continued to violate any law relative thereto, or shall have continued unsafe or unsound practices in conducting the business of said **[bank] financial institution**, after having been warned in writing by the commissioner to discontinue such violations of law or such unsafe or unsound practices, he may cause notice to be served upon such officer, trustee, or director to appear before him to show cause why he should not be removed from office. A copy of such order shall be sent by registered mail to each trustee or director of the **[bank] financial institution** affected. If, after granting such officer, trustee, or director a reasonable opportunity to be heard, the commissioner finds that he has continued to so violate the law, or has continued unsafe or unsound practices after having been warned, the commissioner may, with the approval of 2 persons of good standing in the banking business, to be named by the governor upon the request of the bank commissioner, order that such officer, director, or trustee be removed from office. A copy of such order shall be served upon such officer, trustee, or director and upon the **[bank] financial institution** of which he is an officer, trustee, or director whereupon he shall cease to be an officer, trustee, or director of such **[bank] financial institution**. Provided that such order and the findings of fact upon which it is based shall not be made public or disclosed to any one except the officer, trustee, or director involved and the trustees or directors of the **[bank] financial institution** affected, otherwise than in connection with proceedings for a violation of this section. No such officer, trustee, or director removed from office as herein provided shall, without the consent of the bank commissioner, participate in any manner in the management or operation of said **[bank] financial institution**. Any person so removed from office may, with the approval of the trustees or directors of the **[bank] financial institution** affected expressed by majority vote in which he shall not participate, appeal by petition to the supreme court within 30 days from the date of the order of removal. Upon hearing, after such notice as the court may order, the burden of proof shall be upon the petitioner to show that the order of removal is clearly unreasonable or unlawful, and all findings of the bank commissioner upon all questions of fact properly before him shall be deemed to be prima facie lawful and reasonable and the order shall not be set aside or vacated except for errors of law unless the court by a clear preponderance of the evidence before it finds that such order is unjust or unreasonable. Pending decision of the supreme court, the order of removal shall continue in effect.

Amend the bill by inserting after section 15 the following and renumbering the original sections 16 and 17 to read as 20 and 21, respectively:

16 Name and Charter Powers. Amend RSA 388:14 to read as follows:

388:14 Name and Charter Powers. The bank resulting from a consolidation under the provisions of this chapter may adopt the charter of either of the consolidating banks with such change of name as may be desirable. Any proposal for such adoption of charter and change of name shall be set forth in the petition filed under RSA 388:1 and 388:8 and shall become effective upon approval thereof by the bank commissioner, and filing in the office of the secretary of state together with the payment of a fee of **[\$5] \$35**.

17 Approval of Petition; Filing With Secretary of State. Amend RSA 386-A:29, II to read as follows:

II. If the board of trust company incorporation finds that the proposed amendment satisfies the requirements of RSA 386-A:26 and was adopted in accordance with RSA 386-A:27, and that the public convenience and advantage and the interest of the petitioning institution, its members, stockholders and depositors will be promoted by the proposed amendment, it shall so certify, and shall endorse its approval on one of the certified copies of the amended articles of agreement or amended charter. The petitioning savings bank shall thereupon file the same in the office of the secretary of state, accompanied by a fee equal to the fee charged by the secretary of state to business corporations under RSA 293-A. The secretary of state shall thereupon cause said amended articles of agreement or amended charter, with the endorsement thereon, to be recorded, and shall issue a certificate of amended incorporation, and thereafter such savings bank shall have all the powers and privileges provided for by said amended articles of agreement or amended charter. The fee for recording with the secretary of state any amended articles of agreement or amended charter, which does not embody any increase of the authorized capital debentures, capital stock or special deposits, shall be **[\$25] \$35**.

18 Fees for Recording. Amend RSA 392:29 to read as follows:

392:29 Fees for Recording. The fee for recording with the secretary of state any amended certificate, which does not embody an increase of the authorized capital stock, shall be **[\$5] \$35**.

19 Contingency. If HB 1348-FN of the 2004 legislative session becomes law, sections 16-18 of this act shall take effect on July 1, 2004 at 12:01 a.m. If HB 1348-FN does not become law, sections 16-18 of this act shall not take effect.

Amend the bill by replacing section 21 with the following:

21 Effective Date.

I. Sections 16-18 of this act shall take effect as provided in section 19 of this act.

II. The remainder of this act shall take effect upon its passage.

Conferees: Sens. Flanders, Dist. 7; Odell, Dist. 8; and Foster, Dist. 13

Conferees: Reps. Hunt, Ches. 28; Spiess, Hills. 47; Meader, Ches. 25; and Stepanek, Hills. 47

### **COMMITTEE OF CONFERENCE REPORT ON SB 508**

Committee of Conference on **SB 508-FN**, relative to grant-funded programs.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Flanders, Dist. 7; Boyce, Dist. 4; and Cohen, Dist. 24

Conferees: Reps. Stohl, Coos. 1; Lockwood, Merr. 35; Boyce, Belk. 31; and N. Johnson, Straf. 68

### **COMMITTEE OF CONFERENCE REPORT ON SB 521**

Committee of Conference on **SB 521-FN**, increasing the penalty for identity fraud.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Peterson, Dist. 11; Green, Dist. 6; and Larsen, Dist. 15

Conferees: Reps. Bemis, Straf. 67; Fish, Ches. 25; K. Gilbert, Rock 82; and Movsesian, Hills 60

### **COMMITTEE OF CONFERENCE REPORT ON SB 526**

Committee of Conference on **SB 526**, relative to sexual harassment complaint procedures for public employees.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Boyce, Dist. 4; Odell, Dist. 8; and Larsen, Dist. 15

Conferees: Reps. MacKay, Merr. 39; Stohl, Coos. 1; N. Allan, Hills. 63; and Tilton, Ches. 27

### **COMMITTEE OF CONFERENCE REPORT ON SB 533**

Committee of Conference on **SB 533**, relative to licensing requirements for certain recreation and child care programs.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House

Conferees: Sens. Johnson, Dist. 2; Martel, Dist. 18; and Larsen, Dist. 15

Conferees: Reps. Brundige, Hills. 58; Twombly, Straf. 67; Dowd, Rock. 77; and Schmidt, Straf. 70

## **REGULAR CALENDAR**

### **COMMITTEE OF CONFERENCE REPORTS ON SENATE BILLS**

#### **COMMITTEE OF CONFERENCE REPORT ON SB 109**

Committee of Conference on **SB 109**, adopting the model Drug Dealer Liability Act.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by deleting section 2 and renumbering the original section 3 to read as 2.

### AMENDED ANALYSIS

This bill adopts the model Drug Dealer Liability Act, which has been adopted by the bipartisan American Legislative Exchange Council.

Conferees: Sens. Prescott, Dist. 23; Clegg, Dist. 14; and Martel, Dist. 18

Conferees: Reps. Haytayan, Hills. 46; Woods, Straf. 69; Craig, Hills. 50; and Knowles, Straf. 69 Adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 302

Committee of Conference on **SB 302-FN-L**, making technical corrections to the education funding formula.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Education Property Tax; Version Effective July 1, 2004. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$3.33 on each \$1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

2 Education Property Tax; Version Effective July 1, 2005. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. Beginning July 1, 2005, and every fiscal year thereafter, the commissioner of the department of revenue administration shall set the education property tax rate at a level sufficient to generate revenue equal to the statewide education property tax revenue generated in the previous fiscal year. Such rate shall be imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F. The education property tax rate shall be effective for the fiscal year in which the calculation is made.

3 School Money; Definitions. RSA 198:38 is repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "Average per pupil adequacy cost" means the amount as determined in accordance with RSA 198:40.

V. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III, as of September 30<sup>th</sup> of the second school year preceding the year in which the calculation is made.

VI. "Average daily membership in residence" means the average daily membership in residence as, defined in RSA 189:1-d, IV, as of September 30<sup>th</sup> of the second school year preceding the year in which the calculation is made, provided that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

VII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41. In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

VIII. "Department" means the department of education.

4 School Money; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42, and to provide [~~statewide enhanced educa-~~

~~tion property tax hardship relief under RSA 198:55]~~ *low and moderate income homeowners property tax relief under RSA 198:56-198:61*. The state treasurer shall deposit into this fund immediately upon receipt:

5 School Money; Determination of Average Per Pupil Adequacy Cost; Fiscal Year 2004. RSA 198:40 is repealed and reenacted to read as follows:

198:40 Determination of Average Per Pupil Adequacy Cost.

I. Beginning July 1, 1999, and every biennium thereafter, the average per pupil adequacy cost shall be established using the following formula:

(a) The department shall calculate the cost per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain a cost per pupil.

(b) The department shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above. From these school districts, the department shall then identify those school districts that have the lowest cost per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified.

(c) The department shall multiply the cost per pupil of each school district identified in subparagraph I (b) by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025 to attain the average per pupil adequacy cost.

II. For each fiscal year, the statewide cost of an adequate education shall be determined by:

(a) Multiplying the average per pupil adequacy cost by the statewide average daily membership in residence; and

(b) Adding the total statewide targeted aid for low income pupils and the total statewide targeted aid for property poor municipalities, as determined in RSA 198:41, to the result obtained in subparagraph II (a).

6 School Money; Determination of Average Per Pupil Adequacy Cost; Version Effective July 1, 2005. The introductory paragraph to RSA 198:40, I is repealed and reenacted to read as follows:

I. Beginning July 1, 1999, the average per pupil adequacy cost shall be established using the following formula:

7 New Subparagraph; Determination of Average Per Pupil Adequacy Cost; Consumer Price Index Adjustment; Version Effective July 1, 2005. Amend RSA 198:40, I by inserting after subparagraph (c) the following new subparagraph:

(d) For each biennium beginning July 1, 2005 and every biennium thereafter, the average per pupil adequacy cost calculated for the previous biennium shall be multiplied by 2 times the average annual percentage rate of inflation for the immediately preceding 4 calendar years based on the northeast region consumer price index for all urban consumers, as published by the Bureau of Labor Statistics, United States Department of Labor.

8 School Money; Targeted Aid; Determination of Adequate Education Grants. RSA 198:41 is repealed and reenacted to read as follows:

198:41 Targeted Aid; Determination of Adequate Education Grants.

I. A municipality shall receive aid for low income pupils which shall be calculated by multiplying the average per pupil adequacy cost, determined in RSA 198:40, I, by 0.6 and multiplying the result by the number of pupils in the municipality eligible to receive a free or reduced-price meal as reported to the department.

II. A municipality may receive aid as a property poor municipality as follows:

(a)(I) Divide the total statewide equalized valuation of all municipalities as determined by the department of revenue administration, excluding property subject to taxation under RSA 82 and RSA 83-F, from the second year preceding the year in which the calculation is made, by the total statewide average daily membership in residence. The result shall be the statewide average equalized valuation per pupil.



(2) Divide the equalized valuation of all property in a municipality as determined by the department of revenue administration, excluding property subject to taxation under RSA 82 and RSA 83-F, from the second school year preceding the year in which the calculation is made, by the municipality's average daily membership in residence. The result shall be the municipality's equalized valuation per pupil.

(b) In any fiscal year, if a municipality's equalized valuation per pupil is less than or equal to 90 percent of the statewide average equalized valuation per pupil, such municipality shall receive aid as a property poor municipality as follows:

(1) Multiply the statewide average equalized valuation per pupil by 0.9 and subtract the municipality's equalized valuation per pupil. Multiply the result by the municipality's average daily membership in residence to obtain the municipality's adjusted equalized valuation per pupil.

(2) Divide the municipality's adjusted equalized valuation per pupil by the sum total of adjusted equalized valuations per pupil statewide. Multiply the result by the statewide amount of aid for low income pupils in a fiscal year to obtain the municipality's aid as a property poor municipality.

(c) In every fiscal year, the amount distributed as targeted aid for property poor municipalities under this paragraph shall be equal to the amount distributed as targeted aid for low income pupils under paragraph I of this section.

III. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department shall determine the amount of the adequate education grant for a municipality as follows:

(a) Multiply the average per pupil adequacy cost by the average daily membership in residence for the municipality; and

(b) Add to the product of subparagraph (a), the amount of targeted aid for low income pupils and the amount of targeted aid for property poor municipalities which a municipality is entitled to receive as calculated under this section; and

(c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

IV. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph III of this section; or

(b) The total amount paid for items of current education expense as determined by the department minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

9 School Money; Distribution Schedule of Adequate Education Grants. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 2004, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of adequate education grants.

10 Cooperative School Districts; Certification of District Taxes. Amend RSA 195:14, I(c)-(d) to read as follows:

(c) The commissioner of revenue administration shall certify to the state department of education the total amount to be apportioned among the pre-existing school districts. Such total shall include the adequate education cost for the district under RSA 198:38, ~~[XH]~~ VIII, and the amount above the cost of an adequate education to be assessed and collected as local educational taxes.

(d) The state department of education shall determine the proportional share of the costs above adequacy to be assessed as local education taxes as follows:

[(+)] (1) First, the department shall determine each pre-existing district's proportional share of the total amount to be apportioned based on the cooperative school district formula.

[(+)] (2) Second, the department shall then deduct each pre-existing school district's adequate education cost under RSA 198:38, [X] VIII, from its proportional share of the total amount to be apportioned.

[(+)] (3) Third, the department shall notify the commissioner of revenue administration of its determinations.

[(+)] (4) If the amount determined in subparagraph [(+)] (2) for any pre-existing district is less than zero, the department shall reduce the adequate education grant payable to the cooperative district under RSA 198:42 by the difference between the amount determined in subparagraph [(+)] (1) and the pre-existing district's adequate education cost under RSA 198:38, [X] VIII.

11 Cooperative School Districts; State Aid. Amend RSA 195:15 to read as follows:

195:15 State Aid. The state aid to which a cooperative elementary and/or secondary district shall be entitled shall be the total of those shares of the aid to which the pupils attending the cooperative district would have entitled the pre-existing districts, had they remained in the pre-existing districts. For the purposes of crediting the cooperative district's adequate education cost to the pre-existing districts, each such pre-existing district shall have its adequate education cost under RSA 198:38, [X] VIII credited against its share of the cooperative school district budget. However, cooperative school districts formed by 2 or more pre-existing districts whose boundaries approximate those of a single township in which they are located shall be treated as a single school district for the purposes of this section.

12 School Money; Maintenance of Local Control. Amend RSA 198:48 to read as follows:

198:48 Maintenance of Local Control. Distributions under RSA 198:42 ~~depend only on weighted average daily membership in residence and the per pupil adequacy cost amounts as determined in this subdivision~~ are based on adequate education costs determined in RSA 198:40 and are independent of how the municipalities decide to spend the distributions or other funds they may raise for education. Notwithstanding any other provision of law, nothing in this subdivision is intended in any way to limit or control how school districts operate or spend their budgets except that adequate education grants must be expended for educational purposes. Adequate education grants and hardship grants shall not be considered unanticipated funds under RSA 198:20-b.

13 School Money; Duties of the Department of Education and the State Board of Education. Amend RSA 198:44, I to read as follows:

I. The department of education shall, on or before September 30 of each year, collect from the school districts final data concerning all aspects of student attendance for the school year ending June 30 of that year necessary to establish the average daily membership[;] ~~and average daily membership in residence[; and weighted average daily membership in residence;]~~ including the municipality of residence for each pupil for that year. The department of education shall submit a report by December 31 to the speaker of the house of representatives and the senate president to be used for purposes of determination by the legislature of the appropriation to the education trust fund. A copy of such report shall, at the same time, be given to the department of revenue administration.

14 School Districts; Unanticipated Funds Available. Notwithstanding RSA 198:20-b and RSA 198:48, for the fiscal year ending June 30, 2005, a school district may accept and expend unanticipated funds from the education trust fund which may become available during the year as a result of adjustments to the calculation of adequate education grant amounts.

15 School Districts; Special Meetings. Notwithstanding RSA 197:3, for the fiscal year ending June 30, 2005, a school district at a special meeting may make adjustments to the district's operating budget due to adjustments to the calculation of adequate education grant amounts.

16 Education Property Tax; Rate Established; Contingent Version. RSA 76:3 is repealed and reenacted to read as follows:

76:3 Education Property Tax. An annual education property tax at the uniform rate of \$4.92 on each \$1000 of the value of taxable property is hereby imposed on all persons and property taxable pursuant to RSA 72 and RSA 73, except property subject to tax under RSA 82 and RSA 83-F.

17 Assessment; Commissioner's Warrant; Commissioner's Report; Contingent Versions. RSA 76:8 and 76:9 are repealed and reenacted to read as follows:

76:8 Commissioner's Warrant.

I. The commissioner of revenue administration shall annually calculate the proportion of education property tax to be raised by each municipality by multiplying the uniform education property tax rate by the total equalized value of all property in the municipality as determined under RSA 21-J:3, XIII for the preceding year, except property taxable under RSA 82 or RSA 83-F.

II. The commissioner shall issue a warrant under the commissioner's hand and official seal for the amount computed in paragraph I to the selectmen or assessors of each municipality by December 15 directing them to assess such sum and pay it to the municipality for the use of the school district or districts and, if there is an excess education tax payment due pursuant to RSA 198:46, directing them to assess the amount of the excess payment and pay it to the department of revenue administration for deposit in the education trust fund. Such sums shall be assessed at such times as may be prescribed for other taxes assessed by such selectmen or assessors of the municipality.

III. Municipalities are authorized to assess local property taxes necessary to fund school district appropriations not funded by the education property tax, by distributions from the education trust fund under RSA 198:39, or by other revenue sources.

76:9 Commissioner's Report. The commissioner of revenue administration shall report to the governor, the speaker of the house of representatives, the president of the senate, and the commissioner of education each year on or before October 1, a statement of the education property tax warrants to be issued for the tax year commencing April 1 of the succeeding year.

18 Utility Property Tax; Exemption; Contingent Version. RSA 83-F:9 is repealed and reenacted to read as follows:

83-F:9 Exemption From State Education Property Tax. Persons and property subject to taxation under this chapter shall not be subject to tax under RSA 76:3; provided, however, that nothing in this chapter shall be construed to exempt such persons or property from local school, municipal, district, or county taxation under RSA 76.

19 School Boards, Teachers; Definitions Amended; Contingent Version. RSA 189:1-d is repealed and reenacted to read as follows:

189:1-d Definitions. In this chapter:

I. "Attendance" means full-time participation in a program of instruction under the direction of a teacher employed by the school district. Educationally disabled home educated pupils educated at school district expense under the direction of a teacher employed by the school district shall be included.

II. "Membership" means pupils of whom attendance is expected, whether a pupil is present or absent on any given day.

III. "Average daily membership in attendance" means the aggregate half-day membership of pupils attending schools operated by a school district divided by the number of half-days of instruction offered. The average daily membership in attendance for preschool and kindergarten pupils shall be divided by the number of instructional days offered to higher-level elementary grades.

IV. "Average daily membership in residence" means the average daily membership in attendance of pupils who are legal residents of the school district pursuant to RSA 193:12 or RSA 193:27, IV and are attending any public school, or who are attending any charter school or private school program approved by the department of education at the expense of the school district.

20 School Money; Definitions: Education Trust Fund; Determination of Per Pupil Adequate Education Cost; Determination of Adequate Education Grants; Contingent Version. RSA 198:38-41 are repealed and reenacted to read as follows:

198:38 Definitions. In this subdivision:

I. "Municipality" means a city, town, or unincorporated place.

II. "School district" means school district as defined in RSA 194:1 or RSA 195:1.

III. "Elementary school" means a school with any of the grades kindergarten through 8.

IV. "High school" means a school with any of the grades 9 through 12.

V. "Base expenditure per pupil" for each school district that operates an elementary school means the amounts calculated in accordance with RSA 198:40, I(a).

VI. "Average base cost per pupil of an elementary school pupil" means the amount as determined in accordance with RSA 198:40.

VII. "Weighted pupils" means resident pupils weighted as follows:

(a) Every pupil, including kindergarten pupils, 1.0.

(b) A high school pupil, an additional weight of 0.2.

(c) An educationally disabled child, an additional weight of 1.0.

(d)(1) Additional weights based on pupils eligible to receive a free or reduced-price meal shall be calculated by multiplying each municipality's elementary average daily membership in residence by the percentage of elementary pupils eligible to receive a free or reduced-price meal in the district of residence, and multiplied by:

(A) If the district percent is less than or equal to the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, zero.

(B) If the district percentage is greater than the percentage of elementary pupils eligible to receive a free or reduced-price meal statewide multiplied by 0.85, the lesser of 1.0 or a number equal to 5 times the difference between the district percentage and the state average percentage multiplied by 0.85.

(2) If the elementary average daily membership of the district of residence is less than 10, the percentage of elementary pupils eligible to receive a free or reduced-price meal shall be equal to the percentage eligible in that district in which the majority of the elementary pupils attend.

(e) Each pupil who is home educated pursuant to a program approved under RSA 193-A shall be added as follows:

(1) 0.1 for each home educated pupil participating in a public school activity; and

(2) An additional 0.15 for each academic course taken in a public school, provided that no co-curricular activity, as defined by the department of education, shall count as an academic course under this subparagraph.

VIII. "Educationally disabled child" means an educationally disabled child as defined in RSA 186-C:2, I.

IX. "Average daily membership in attendance" means average daily membership in attendance as defined in RSA 189:1-d, III.

X. "Average daily membership in residence" and "resident pupils" mean the average daily membership in residence as defined in RSA 189:1-d, IV except that no kindergarten pupil shall count as more than 1/2 day attendance per calendar day.

XI. "Transportation costs" means the cost of transporting pupils in kindergarten through grade 8, excluding educationally disabled pupils, to and from school as reported by school districts on the DOE-25 form.

XII. "Adequate education cost" means the amount calculated for a municipality in accordance with RSA 198:41, I(a) and (b). In a cooperative school district, the adequate education cost shall equal the sum of the adequate education costs of the municipalities whose pre-existing school districts constitute the cooperative school district.

198:39 Education Trust Fund Created and Invested.

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts pursuant to RSA 198:42, and to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61. The state treasurer shall deposit into this fund immediately upon receipt:

(a) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-A:20-a, relative to business profits taxes.

(b) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 77-E:14, relative to business enterprise tax.

(c) Funds collected and paid over to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-A:26, III relative to the tax on motor vehicle rentals.

(d) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 78:32, relative to tobacco taxes.

(e) Funds certified to the state treasurer by the commissioner of revenue administration pursuant to RSA 78-B:13, relative to real estate transfer taxes.

(f) Funds collected and paid over to the state treasurer by the department of revenue administration pursuant to RSA 83-F:7, I, relative to the utility property tax.

(g) The full amount of excess education property tax payments from the department of revenue administration pursuant to RSA 198:46.

(h) All moneys due the fund in accordance with RSA 284:21-j, relative to sweepstakes.

(i) Tobacco settlement funds in the amount of \$40,000,000 annually.

(j) The school portion of any revenue sharing funds distributed pursuant to RSA 31-A:4 which were apportioned to school districts in the property tax rate calculations in 1998.

(k) Any other moneys appropriated from the general fund.

II. The education trust fund shall be nonlapsing. The state treasurer shall invest that part of the fund which is not needed for immediate distribution in short-term interest-bearing investments. The income from these investments shall be returned to the fund.

198:40 Determination of Per Pupil Adequate Education Cost and Adequate Education Grant.

I. For the biennium beginning July 1, 1999, and every biennium thereafter, the cost per pupil shall be established using the following formula:

(a) The department of education shall calculate the base expenditure per pupil for each school district that operates an elementary school by subtracting from the total expenditures at the elementary school level, tuition to other school districts or approved educational programs, capital costs and debt service on such costs, special education costs, food service costs, transportation costs, adult/continuing education and community services costs, and federal revenues not otherwise deducted. For each school district, this amount shall be divided by the average daily membership in attendance at the elementary school level to attain the base expenditure per pupil.

(b) The adequate education grant amount shall be calculated as follows:

(1) The department of education shall identify those school districts where 40 to 60 percent of the elementary pupils enrolled in the grades tested on the day testing began, achieved a scaled score, in the statewide educational improvement and assessment program administered pursuant to RSA 193-C, in all areas tested, equivalent to performance at the basic level or above.

(2) From the school districts identified in subparagraph I(b)(1) of this section, the department of education shall then identify those school districts that have the lowest base expenditure per pupil as calculated pursuant to subparagraph I(a) and which represent, as nearly as possible, 50 percent of the average daily membership in attendance at the elementary level of the school districts identified in subparagraph I(b)(1) of this section.

(3) The department of education shall calculate the average base cost per pupil of an adequate education at the elementary school level by multiplying the base expenditure per pupil of each school district identified in subparagraph I(b)(2) of this section by the average daily membership in attendance at each of the selected school districts, and add the results across all districts selected. This sum shall then be divided by the total average daily membership in attendance at the elementary school level in all of the selected school districts and the result shall be multiplied by .9025.

II. The weighted average daily membership in residence for each municipality shall be calculated by combining the elementary average daily membership in residence with the weighted high school average daily membership in residence, the average daily membership in residence resulting from educationally disabled children, and the additional average daily membership in residence resulting from elementary pupils eligible to receive a free or reduced-price meal. The statewide weighted average daily membership in residence of pupils shall be calculated by combining the weighted average daily membership in residence of each municipality in the state.

III. The statewide cost of an adequate education for all pupils shall be calculated by multiplying the average base per pupil cost of an adequate education by the statewide weighted average daily membership in residence of pupils and then adding 100 percent of transportation costs as defined in RSA 198:38, XI.

198:41 Determination of Adequate Education Grants.

I. Except for municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for the municipality as follows:

(a) Multiply the average base cost per pupil of an elementary pupil by the weighted average daily membership in residence for the municipality; and

(b) Add to the product of subparagraph (a), 100 percent of the municipality's apportioned transportation costs as defined in RSA 198:38, XI;

(c) Subtract from the sum of subparagraph (b) the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

II. For municipalities where all school districts therein provide education to all of their pupils by paying tuition to other institutions, the department of education shall determine the amount of the adequate education grant for each municipality as the lesser of the two following calculations:

(a) The amount calculated in accordance with paragraph I of this section; or

(b) The total amount paid for items of current education expense as determined by the department of education minus the amount of the education property tax warrant to be issued by the commissioner of revenue administration for such municipality reported pursuant to RSA 76:9 for the next tax year.

21 School Money; Distribution of Education Grants; Contingent Version. RSA 198:42, II is repealed and reenacted to read as follows:

II. For the fiscal year beginning July 1, 1999, and every fiscal year thereafter the amount necessary to fund the grants under RSA 198:41 is hereby appropriated from the education trust fund created under RSA 198:39 to the department of education. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this section. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of education grants.

22 Consumer Price Index Adjustments to the Base Cost Per Pupil Calculation. The base cost per pupil shall be adjusted by the average annual percentage rate of inflation for the 4 immediately preceding calendar years.

23 Contingent Applicability. If the New Hampshire supreme court declares any provision of sections 1-15 of SB 302-FN-LOCAL of the 2004 legislative session to be contrary to the New Hampshire constitution, and if the New Hampshire supreme court determines that the applicability thereof to any agency, person, or circumstance is held invalid, then sections 16-22 of this act shall take effect immediately upon the determination of such unconstitutionality and invalidity, and shall remain in effect thereafter.

24 Repeal. The following are repealed:

I. 2003, 241:10-27, relative to the statewide enhanced education property tax formula.

II. 2003, 241:33, relative to the severability of certain provisions of 2003, 241.

III. RSA 198:40, II-III relative to calculating the weighted average daily membership in residence and calculating the statewide cost of an adequate education.

25 Effective Date.

I. Section 1 shall take effect July 1, 2004.

II. Sections 2, 6, and 7 shall take effect July 1, 2005.

III. Section 24 of this act shall take effect June 30, 2004.

IV. Sections 16-22 of this act shall take effect as provided in section 23 of this act.

V. The remainder of this act shall take effect upon its passage.

## AMENDED ANALYSIS

This bill:

I. Establishes the education property tax rate at \$3.33 for the 2005 fiscal year.

II. For the 2006 fiscal year and every fiscal year thereafter, requires that the commissioner of the department of revenue administration to set the education property tax rate at a level sufficient to generate revenue equal to the revenue generated in the previous fiscal year.

III. Revises the formula for determining adequate education costs and adequate education grants.

IV. Provides targeted aid grants for low income pupils in each municipality.

V. Provides targeted aid grants for certain property poor municipalities based on the relationship between the statewide average equalized valuation per pupil and the municipality's equalized valuation per pupil.

VI. Effective June 30, 2004, repeals certain sections of HB 608-FN-LOCAL of the 2003 legislative session relative to the statewide enhanced education tax.

VII. Provides that the education funding formula for the 2004 fiscal year shall take effect if any provision of sections 1-15 of SB 302-FN-LOCAL of the 2004 legislative session is found by the New Hampshire supreme court to be unconstitutional and invalid.

Conferees: Sens. Clegg Dist. 14; Morse, Dist. 22; and Foster, Dist. 13

Conferees: Reps. Whalley, Belk. 31; Kurk, Hills. 48; Major, Rock 79; and Lasky, Hills 65

### APPEAL

In response to an inquiry from Representative Hughes, the Speaker ruled that the House conferees on SB 302 acted in accordance with all necessary rules and law.

Representative Hughes appealed the ruling of the Chair.

Following discussion, Representative Hughes withdrew his appeal.

Reps. Hughes, Mark Carter, Pantelakos, McEachern, Splaine, Sorg, DeJoie, Jacobson, Buckley, McCormick, Vaillancourt, Pepino and Jeffrey Gilbert spoke against.

Reps. Kurk, Scott, Timothy Allen, Hager and Whalley spoke in favor.

Reps. King and Burling spoke against and yielded to questions.

Rep. Weyler spoke in favor and yielded to questions.

Rep. Slocum requested a roll call; sufficiently seconded.

The question being adoption of the Committee of Conference Report.

### YEAS 195 NAYS 165

#### YEAS 195

##### BELKNAP

Allen, Janet	Bartlett, Gordon	Boyce, Laurie	Clark, Charles
Dewhirst, Glenn	Lawton, David	Nedeau, Stephen	Russell, David
Thomas, John	Whalley, Michael		

##### CARROLL

Dickinson, Howard	McConkey, Mark	Mock, Henry	
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##### CHESHIRE

Dexter, Judson	Hunt, John	Laurent, John	Liebl, George
Royce, H Charles			

##### COOS

Guay, Lawrence	Stohl, Eric		
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##### GRAFTON

Akins, Ralph	Dorsett, Andrew	Dudley, Terri	Eaton, Stephanie
Maybeck, Margie	Williams, Burton		

### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Balboni, Michael	Balcom, John	Batula, Peter	Bergeron, Jean-Guy
Bergin, Peter	Brundige, Robert	Bruno, Pierre	Buhlman, David
Carlson, Donald	Cernota, Albert	Chabot, Robert	Christensen, D L Chris
Christiansen, Lars	Clemons, Jane	Cote, David	Cote, Peter
Coughlin, Pamela	Crane, Elenore Casey	Dionne, Kimberley	Dokmo, Cynthia
Drisko, Richard	Elliott, Larry	Emerton, Larry	Fields, Dennis
Fletcher, Richard	Ford, Nancy	Gargas, Carolyn	Gibson, John
Gorman, Mary	Goyette, Peter Jr	Graham, John	Hansen, Ryan
Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton
Holden, Randolph	Hopper, Gary	Hunter, Bruce	Jasper, Shawn
Jean, Claudette	Kopka, Angeline	Kudalis, Debra	Kurk, Neal
LaFlamme, Paul	Lasky, Bette	Lefebvre, Roland	Lessard, Rudy
Martin, Mary Ellen	McElroy, Henry Jr	McHugh, Claire	McRae, Karen
Mercer, Robert	Michon, Stephen	Mooney, Maureen	Moran, Edward
Mosher, William	Movsesian, Lori	O'Brien, Lori	Ober, Russell III
Price, Pamela	Rowe, Robert	Scanlon, Michael	Schulze, Joan
Slocum, Lee	Spiess, Paul	Stepanek, Stephen	Sweeney, Cynthia
Wheeler, James	Wheeler, Robert		

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Currier, David	DeStefano, Stephen	Dunne, Christopher	Field, William
Foley, Albert	Fraser, Leo Jr	Hager, Elizabeth	Hess, David
Kenison, Leon	Kennedy, Richard	L'Heureux, Stephen	Langer, Ray
Leber, William	Lockwood, Priscilla	MacKay, James	Marple, Richard
Maxfield, Roy	Nutter, Edward	Oliver, James	Reardon, Tara
Rush, Deanna	Soltani, Tony		

**ROCKINGHAM**

Allen, Mary	Belanger, Ronald	Bicknell, Elbert	Cady, Harriet
Carson, Sharon	Casey, Kimberley	Clark, Vivian	Cooney, Richard
Dalrymple, Janeen	DiFruscia, Anthony	Dowd, John	Doyle, Christopher
Duffy, James	Dumaine, Dudley	Fesh, Bob	Flanders, John Sr
Gleason, John	Gould, Kenneth	Griffin, Mary	Headd, James
Holland, James Jr	Hutchinson, Karen	Ingram, Russell	Introne, Robert
Itse, Daniel	Johnson, Rogers	Katsakiores, George	Katsakiores, Phyllis
Kobel, Rudolph	Langone, John	Letourneau, Robert	Major, Norman
McCann, Richard	McKinney, Betsy	McMahon, Charles	Morris, Richard
Noyes, Richard	Packard, Sherman	Priestley, Anne	Quandt, Matthew
Rausch, James	Roessner, Kurt	Ruffner, Walter	Smith, Paul
Stone, Joseph	Tufts, J Arthur	Waterhouse, Kevin	Weare, E Albert
Welch, David	Weyler, Kenneth	Wiley, Robert	Winchell, George
Zolla, William			

**STRAFFORD**

Albert, Russell	Berube, Roger	Bickford, David	Campbell, W Packy
Cataldo, Sam	Easson, Timothy	Harrington, Michael	Heon, Richard
Knowles, William	Musler, George	Newton, Clifford	Scott, David
Snyder, Clair	Twombly, James	Woods, Phyllis	

**SULLIVAN**

Rodeschin, Beverly

**NAYS 165****BELKNAP**

Ahern, Omer Jr	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Pilliod, James	Rice, Thomas	Wendelboe, Fran	

**CARROLL**

Babson, David Jr	Derby, Mark	Merrow, Harry	Olimpio, J Lisbeth
Patten, Betsey	Philbrick, Donald		

**CHESHIRE**

Allen, Peter	Dunn, James	Eaton, Daniel	Espiefs, Peter
Fish, Douglas	Manning, Joseph	Meador, David	Mitchell, McKim
Parkhurst, Henry	Pratt, Irene	Pratt, John	Richardson, Barbara
Robertson, Timothy	Slack, Pamela	Tilton, Anna	Webber, Amy
Weed, Charles			

**COOS**

Brady, Mark	King, Frederick	Mears, Edgar	Poulin, Richard
Pratt, Leighton	Richardson, Herbert	Theberge, Robert	Tholl, John Jr

**GRAFTON**

Alger, John	Almy, Susan	Barker, Robert	Benn, Bernard
Cooney, Mary	Densmore, Edward	Diamond, Estelle	Gilman, G Michael



Gionet, Edmond  
Ingbretson, Paul  
Sokol, Hilda

Giuda, Robert  
Naro, Debra  
Solomon, Peter

Ham, Bonnie  
Nordgren, Sharon  
Sorg, Gregory

Hammond, Lee  
Scovner, Nancy

### HILLSBOROUGH

Baroody, Benjamin  
Buckley, Raymond  
Clayton, William  
Greenberg, Gary  
Irwin, Anne-Marie  
Luebker, Bernard  
Pappas, Christopher  
Reeves, Sandra  
Sullivan, Francis  
Vaillancourt, Steve

Barry, J Gail  
Cail, Kenneth  
Craig, James  
Hagan, Barbara  
Johnson, Lionel  
McDonough-Wallace, Alice  
Pappas, Marc  
Ross, Lawrence  
Sullivan, Jeffrey

Beaton, William  
Carter, Jeffrey  
Desmarais, Vivian  
Haley, Robert  
Katsiantonis, Thomas  
Messier, Irene  
Pepino, Leo  
Shaw, Barbara  
Sullivan, Peter

Brassard, Paul  
Carter, Mark  
Gonzalez, Carlos  
Infantine, William  
Leach, Edward  
Palangas, Eric  
Pilotte, Maurice  
Souza, Kathleen  
Tahir, Saghir

### MERRIMACK

Clarke, Claire  
Gile, Mary  
Osborne, Jessie  
Reed, Dennis

Davis, Frank  
Hamm, Christine  
Owen, Derek  
Rodd, Beth

DeJoie, John  
Jacobson, Alf  
Perkins, Randy  
Seldin, Gloria

French, Barbara  
McCormick, Tom  
Potter, Frances  
Wallner, Mary Jane

### ROCKINGHAM

Abbott, Dennis  
Coes, Betsy  
Gilbert, Jeffrey  
Hughes, Daniel  
McEachern, Paul  
Putnam, Ed II  
Smith, Donald

Blanchard, MaryAnn  
Corbin, Corey  
Gilbert, Karl  
Johnson, Robert  
Norelli, Terie  
Robertson, Carl  
Splaine, James

Bridle, Russell  
Dodge, Robert  
Gillick, Thomas  
Kelley, Jane  
O'Neil, Michael  
Scamman, Stella  
Weldy, Norman Jr

Camm, Kevin  
Francoeur, Sheila  
Hamel, Albert  
Langley, Jane  
Pantelakos, Laura  
Shultis, Elizabeth

### STRAFFORD

Bemis, Alan  
Dunlap, Patricia  
Keans, Sandra  
Schmidt, Peter  
Vachon, Dennis

Brown, Julie  
Grassie, Anne  
Miller, Joseph  
Smith, Marjorie  
Wall, Janet

Callaghan, Frank  
Johnson, Nancy  
Pelletier, Arthur  
Spang, Judith

Creteau, Irene  
Kaen, Naida  
Rous, Emma  
Taylor, Katherine

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinzy, James

Cloutier, John  
Franklin, Peter

Donovan, Thomas  
Jones, Constance

and the Committee of Conference Report was adopted.  
The House recessed at 1:05 p.m.

### RECESS

### (Speaker Chandler in the Chair)

The House reconvened at 2:15 p.m.

### PROTESTS

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, the following Representatives requested that their protests against adoption of the Committee of Conference Report on **SB 302-FN-L**, making technical corrections to the education funding formula, be entered on the Journal:

Reps. Buckley, Burling, Mitchell, James T. Dunn, Schmidt, Timothy Robertson, Weed, Benn, Sokol, Scovner, Diamond, Abbott, Blanchard, Almy, Solomon, Osborne, Seldin, Hamm, Nordgren, Spang, Pilotte, Francis Sullivan, Haley, Richardson, Irene Pratt, McEachern, Splaine, Cooney, Casey, Theberge, Mears, Phinzy, Cloutier, Rous, Marjorie Smith, Creteau, Davis, Espieffs, Franklin, Owen, French, Daniel Eaton, Densmore, Gile, Hammond, Miller, Shultis, Potter, Wallace, Wallner, Chris Pappas, Allison, Irwin, Tilton, Pelletier, Parkhurst, Perkins, Rodd, Peter Sullivan, Julie Brown, Pantelakos, Vaillancourt, Keans, Hughes, Wall, Kaen, Dunlap, Leone, Messier, Jones and Joseph Manning.

**PROTEST**

Pursuant to Part 2, Article 24 of the New Hampshire Constitution, Rep. Jane Langley requested that her protest be entered on the Journal.

I rise to file a written protest against the passage of SB 302.

**REGULAR CALENDAR (CONT'D.)****COMMITTEE OF CONFERENCE REPORT ON SB 312**

Committee of Conference on **SB 312-FN**, establishing a state code of ethics.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Code of Ethics. Amend RSA 21-G by inserting after section 20 the following new subdivision:

**Code of Ethics**

21-G:21 Definitions. In this subdivision:

I "Agency" means any executive branch agency, department, division, board, commission, or entity of the executive branch.

II. "Conflict of interest" means a situation, circumstance, or financial interest which has the potential to cause a private interest to interfere with the proper exercise of a public duty.

III. "Gift" means any money or thing of value received in excess of \$50 or in excess of \$250 in aggregate from any single source during any calendar year. Gift shall not include contributions as defined in RSA 664; a commercially reasonable loan made in the ordinary course of business; meals and beverages consumed in the course of official business; ceremonial gifts or awards which have insignificant monetary value; unsolicited gifts of nominal value or trivial items of informational value; reasonable expenses for food, travel, and lodging for an in-state meeting at which the elected official or public employee participates in a panel or a speaking engagement; gifts of tickets or free admission extended to an elected official to attend charitable or political events, if the purpose of such gift or admission is a courtesy customarily extended to the office; gifts that are purely private and personal in nature; or gifts from relatives by blood or marriage, or a member of the same household.

IV. "Public employee" means any person, including but not limited to a classified employee, who is acting on behalf of the governor or an agency while engaged in state business.

V. "Public official" means a commissioned, unclassified, or nonclassified executive branch employee, but shall not include any commissioned, unclassified, or nonclassified employee elected by the legislature.

21-G:22 Conflict of Interest. Public employees and public officials shall avoid conflicts of interest. Public employees and public officials shall not participate in any matter in which they, or their spouse or dependents, have a private interest which may directly or indirectly affect or influence the performance of their duties.

21-G:23 Misuse of Position. No public official and no public employee shall disclose or use confidential or privileged information for personal benefit or for financial gain. Public officials and public employees shall not use their positions with the government to secure privileges or advantages for themselves, which are not generally available to governmental employees, or to secure governmental privileges or advantages for others.

21-G:24 Acceptance of Campaign Contributions. A public official or a public employee who is a candidate for an elective office that is not subject to the reporting requirements of RSA 664 and who accepts a financial contribution or other form of political contribution from an entity which is or is likely to become subject to that public official's or public employee's duties shall make a disclosure of such contributions to the secretary of state within 5 days of receipt of such contributions. The disclosure shall be in writing and on such form as the secretary of state shall prescribe.

21-G:25 Acceptance and Giving of Gifts. Any public employee, public official, and any public employee's or public official's spouse or dependent, who gives, solicits, accepts or agrees to accept a gift from a person who is subject to or likely to become subject to or interested in, any matter or action pending before or contemplated by the public employee or official or by the government-

tal body with which that employee or official is affiliated shall disclose the gift in the statement of financial disclosure filed under RSA 21-G:28. Nothing in this section shall be construed to prohibit gifts made to the state of New Hampshire and accepted in accordance with the law.

21-G:26 Employment Restrictions. For 6 months after leaving office or employment with the state, no public official shall appear as a lobbyist to promote or oppose directly any specific legislation pending or proposed before the general court on behalf of any matter over which that official had personal and direct responsibility while in state government.

21-G:27 Supplemental State Agency Ethical Codes. In addition to this code, each agency may promulgate a supplemental ethics code to address issues specific to that agency. In the event of a conflict, the provisions of this code shall supersede the agency code. To the extent that this code or an ethics code adopted by an agency shall apply to classified employees, this code, or an agency code, shall be interpreted to be consistent with the provisions of the classified employees' collective bargaining agreement.

21-G:28 Financial Disclosure.

I.(a) To ensure that the performance of official duties does not give rise to a conflict of interest, the following public officials shall file with the secretary of state a statement of financial disclosure in such form as the secretary of state may prescribe:

(1) All agency heads; and

(2) Any public official designated, due to the responsibilities of the position, by the agency head.

(b) The agency head shall file with the secretary of state an organizational chart identifying the names, titles, and position numbers of officials required to file a statement of financial disclosure.

II. The initial statements of financial disclosure and organizational charts required under this section shall be filed by July 1, 2005. Thereafter, revised statements of financial disclosure and organizational charts shall be filed immediately upon any change of status. New agency heads shall file a statement of financial disclosure no later than the first day of service.

III. Statements of financial disclosure and organizational charts filed with the secretary of state shall be public documents.

21-G:29 Penalty.

I. Any person who knowingly or willfully violates this subdivision shall be guilty of a misdemeanor and may be subject to termination.

II. In the case of any person convicted under this section, the court may order restitution.  
Conferees: Sens. Barnes, Dist. 17; Sapareto, Dist. 19; and Larsen, Dist. 15  
Conferees: Reps. O'Neil, Rock. 85; Hamel, Rock. 79; Drisko, Hills. 46, and F. Sullivan, Hills. 52  
Adopted.

## COMMITTEE OF CONFERENCE REPORT ON SB 338

Committee of Conference on *SB 338-FN*, relative to the purchase of prior service credit by certain political subdivision employee members.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Retirement System; Political Subdivision Employees; Purchase of Certain Prior Service Credit.  
Amend RSA 100-A:28 to read as follows:

100-A:28 Limitation on Membership. This retirement system and the provisions hereof shall not apply to any person benefited by or entitled to participate under any other provisions of law which provides wholly or in part at the expense of the state or any other employer, for retirement benefits for employees, teachers, permanent policemen, and permanent firemen employed by the state or such other employer, their widows or other dependents, with respect to the same period of service for which they are eligible for benefits under the terms of this chapter. The provisions of this section shall not apply to any person participating in, or receiving or eligible to receive benefits under the old-age and survivors insurance provisions of Title II of the federal Social Security Act, as amended or under a retirement arrangement federally tax-qualified under sections 403(b) or 457 of the United States Internal Revenue Code of 1986, as amended. *The provisions of this section*

*shall not apply with respect to the purchase of prior service credit under RSA 100-A:3, VI by any person who had participated in or deemed eligible to receive benefits under a retirement arrangement funded, wholly or in part, by contributions from a political subdivision of the state, or an agency or instrumentality of a political subdivision of the state; provided, that such arrangement shall first be terminated in full, but in no event later than December 31, 2005; and, further provided, that the benefits thereunder shall be distributed in their entirety to eligible participants and beneficiaries in accordance with the terms and conditions of such terminated retirement arrangement.*

Amend the bill by replacing all after section 5 with the following:

6 Applicability. Notwithstanding section 2 of this act, any New Hampshire retirement system member who was making additional contributions under RSA 100-A:16, I(c) prior to December 31, 2004 or who applied to make additional contributions under RSA 100-A:16, I(c) prior to December 31, 2004 may continue to make additional contributions after December 31, 2004.

7 Effective Date.

I. Sections 2 and 6 of this act shall take effect December 31, 2004.

II. The remainder of this act shall take effect July 1, 2004.

Conferees: Sens. Green, Dist. 6; Roberge, Dist. 9; and Peterson, Dist. 11

Conferees: Reps. O'Neil, Rock. 85; Hall, Hills. 58; Irwin, Hills. 44; and R. Wheeler, Hills. 48

Adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 376

Committee of Conference on *SB 376-FN-A*, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing sections 24-25 with the following:

24 Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

VI. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. *The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state medicaid plan in any way that would consolidate federal grants or allotments or would cap the federal portion of medicaid spending or would in any way result in a change to the state-federal proportional share of medicaid spending or any component thereof, without the prior approval of the fiscal committee of the general court.*

25 Health Services Planning and Review; Exemption Added. Amend RSA 151-C:13, I(g) to read as follows:

(g) Hospice houses;

*(h) Notwithstanding any other provision of this chapter, a skilled nursing facility distinct part unit established by Androscoggin Valley Hospital or Franklin Regional Hospital in order to qualify as a critical access hospital under 42 U.S.C. Section 1395i-4 and 42 C.F.R. Part 485, Subpart F; provided, that the number of beds in the skilled nursing facility distinct part unit shall not exceed the hospital's existing skilled nursing patient capacity. For purposes of this subparagraph, the term "existing skilled nursing patient capacity" means with respect to each month, the number of skilled nursing patient days for such month divided by the number of days in such month, and shall be the highest such number from the 12-month period ending immediately prior to the filing of the federal request for approval of the distinct part unit; provided, however, that the number determined under this subparagraph shall not exceed 10 beds.*

Amend the bill by inserting after section 26 the following and renumbering the original section 27 to read as 28:

27 Health Services Planning and Review Board; Rehabilitation Beds and Services. Through the period ending December 31, 2006 unless sooner authorized by the general court, the health services planning and review board shall not authorize changes regarding the licensure or certification of any rehabilitation beds in any type of facility, shall not authorize the addition of any rehabilitation beds in any type of facility, and shall not grant any certificate of need related to the

board's administrative standards for comprehensive physical rehabilitation services. This section shall not prohibit the voluntary transfer of rehabilitation beds between 2 licensed health care facilities; provided, that any such transaction does not result in an increase in the number of any type of rehabilitation beds in the state.

### AMENDED ANALYSIS

I. Authorizes the director of plant and property management or any other appropriate purchasing authority to purchase pharmaceuticals and allied products and services for any receiving facility as defined in RSA 135-C or any nonprofit hospital.

II. Changes the medicaid enhancement tax to be imposed on net patient services revenue rather than gross patient services revenue.

III. Amends the statutes relative to county nursing homes and proportionate share payments.

IV. Clarifies the nursing facility quality assessment law and changes the method of how funds are expended from the nursing facility trust fund.

V. Repeals the medicaid quality incentive program.

VI. Establishes a commission to study long-term care reimbursement.

VII. Requires that certain amendments to the state plan for providing medical or other remedial assistance be approved by the fiscal committee of the general court.

VIII. Adds an exemption from the certificate of need law for certain hospitals.

IX. Limits the authority of the health services planning and review board relative to rehabilitation beds and services.

Conferees: Sens. Boyce, Dist. 4; Gallus, Dist. 1; and D'Allesandro, Dist. 20

Conferees: Reps. Kurk, Hills. 48; Emerton, Hills. 48; Rogers Johnson, Rock. 83; and Wallner, Merr. 40  
Rep. Kurk spoke in favor and requested a roll call; sufficiently seconded.

The question being adoption of the Committee of Conference Report.

### YEAS 324 NAYS 3

#### YEAS 324

#### BELKNAP

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Boyce, Laurie
Clark, Charles	Fitzgerald, James	Flanders, Donald	Holbrook, Robert
Lawton, David	Nedeau, Stephen	Pilliod, James	Rice, Thomas
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

#### CARROLL

Babson, David Jr	Derby, Mark	Kenney, Bettie	McConkey, Mark
Morrow, Harry	Mock, Henry	Olimpio, J Lisbeth	Patten, Betsey

#### CHESHIRE

Allen, Peter	Dexter, Judson	Dunn, James	Eaton, Daniel
Espiefs, Peter	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Manning, Joseph	Meador, David	Mitchell, McKim
Parkhurst, Henry	Pratt, Irene	Richardson, Barbara	Robertson, Timothy
Royce, H Charles	Tilton, Anna	Webber, Amy	Weed, Charles

#### COOS

Brady, Mark	Guay, Lawrence	King, Frederick	Mears, Edgar
Poulin, Richard	Pratt, Leighton	Richardson, Herbert	Stohl, Eric
Theberge, Robert	Tholl, John Jr		

#### GRAFTON

Akins, Ralph	Alger, John	Almy, Susan	Barker, Robert
Benn, Bernard	Cooney, Mary	Densmore, Edward	Diamond, Estelle
Dorsett, Andrew	Dudley, Terri	Eaton, Stephanie	Gilman, G Michael
Giuda, Robert	Ham, Bonnie	Hammond, Lee	Ingbreton, Paul
Maybeck, Margie	Naro, Debra	Nordgren, Sharon	Scovner, Nancy
Sokol, Hilda	Solomon, Peter	Sorg, Gregory	Williams, Burton

**HILLSBOROUGH**

Adams, Jarvis	Allan, Nelson	Allen, Timothy	Artz, Lawrence
Balboni, Michael	Balcom, John	Barry, J Gail	Batula, Peter
Beaton, William	Bergeron, Jean-Guy	Bergin, Peter	Brassard, Paul
Brundige, Robert	Bruno, Pierre	Buckley, Raymond	Buhlman, David
Cail, Kenneth	Carlson, Donald	Carter, Jeffrey	Carter, Mark
Cernota, Albert	Chabot, Robert	Christensen, D L Chris	Christiansen, Lars
Clemons, Jane	Cote, David	Cote, Peter	Coughlin, Pamela
Craig, James	Crane, Elenore Casey	Desmarais, Vivian	Dionne, Kimberley
Dokmo, Cynthia	Drisko, Richard	Elliott, Larry	Emerton, Larry
Fields, Dennis	Fletcher, Richard	Ford, Nancy	Gargas, Carolyn
Gonzalez, Carlos	Gorman, Mary	Goyette, Peter Jr	Graham, John
Greenberg, Gary	Hagan, Barbara	Haley, Robert	Hansen, Ryan
Harrington, Paul	Hawkins, Ken	Haytayan, Harry Jr	Hinkle, Peyton
Holden, Randolph	Hopper, Gary	Hunter, Bruce	Infantine, William
Irwin, Anne-Marie	Jasper, Shawn	Jean, Claudette	Johnson, Lionel
Kopka, Angeline	Kurk, Neal	LaFlamme, Paul	Lasky, Bette
Leach, Edward	Lefebvre, Roland	Luebker, Bernard	Martin, Mary Ellen
McDonough-Wallace, Alice	McElroy, Henry Jr	McHugh, Claire	McRae, Karen
Mercer, Robert	Messier, Irene	Michon, Stephen	Mooney, Maureen
Moran, Edward	Mosher, William	Movsesian, Lori	O'Brien, Lori
Ober, Russell III	Pappas, Christopher	Pappas, Marc	Pepino, Leo
Pilotte, Maurice	Price, Pamela	Reeves, Sandra	Ross, Lawrence
Rowe, Robert	Scanlon, Michael	Schulze, Joan	Shaw, Barbara
Slocum, Lee	Souza, Kathleen	Spiess, Paul	Stepanek, Stephen
Sullivan, Francis	Sullivan, Jeffrey	Sullivan, Peter	Tahir, Saghir
Vaillancourt, Steve	Wheeler, James	Wheeler, Robert	

**MERRIMACK**

Anderson, Eric	Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald
Davis, Frank	DeJoie, John	DeStefano, Stephen	Field, William
Foley, Albert	Fraser, Leo Jr	French, Barbara	Gile, Mary
Hager, Elizabeth	Hamm, Christine	Jacobson, Alf	Kennedy, Richard
L'Heureux, Stephen	Langer, Ray	Leber, William	Lockwood, Priscilla
MacKay, James	Marple, Richard	Maxfield, Roy	Nutter, Edward
Oliver, James	Osborne, Jessie	Owen, Derek	Perkins, Randy
Potter, Frances	Reardon, Tara	Reed, Dennis	Rodd, Beth
Rush, Deanna	Seldin, Gloria	Soltani, Tony	Wallner, Mary Jane

**ROCKINGHAM**

Abbott, Dennis	Allen, Mary	Belanger, Ronald	Bicknell, Elbert
Blanchard, MaryAnn	Bridle, Russell	Cady, Harriet	Camm, Kevin
Carson, Sharon	Casey, Kimberley	Clark, Vivian	Coes, Betsy
Cooney, Richard	Corbin, Corey	DiFruscia, Anthony	Dodge, Robert
Dowd, John	Duffy, James	Dumaine, Dudley	Fesh, Bob
Flanders, John Sr	Francœur, Sheila	Gilbert, Jeffrey	Gilbert, Karl
Gillick, Thomas	Gleason, John	Gould, Kenneth	Griffin, Mary
Hamel, Albert	Headd, James	Holland, James Jr	Hughes, Daniel
Introne, Robert	Johnson, Robert	Johnson, Rogers	Katsakiores, George
Katsakiores, Phyllis	Kelley, Jane	Kobel, Rudolph	Langley, Jane
Letourneau, Robert	Major, Norman	McCann, Richard	McEachern, Paul
McKinney, Betsy	McMahon, Charles	Morris, Richard	Norelli, Terie
Noyes, Richard	O'Neil, Michael	Packard, Sherman	Pantelakos, Laura
Priestley, Anne	Putnam, Ed II	Rausch, James	Robertson, Carl
Roessner, Kurt	Ruffner, Walter	Scamman, Stella	Shultis, Elizabeth
Smith, Donald	Smith, Paul	Splaine, James	Stone, Joseph

Tufts, J Arthur  
Weldy, Norman Jr  
Zolla, William

Waterhouse, Kevin  
Weyler, Kenneth

Weare, E Albert  
Wiley, Robert

Welch, David  
Winchell, George

### STRAFFORD

Albert, Russell  
Cataldo, Sam  
Harrington, Michael  
Miller, Joseph  
Schmidt, Peter  
Spang, Judith

Berube, Roger  
Creteau, Irene  
Heon, Richard  
Musler, George  
Scott, David  
Twombly, James

Bickford, David  
Dunlap, Patricia  
Johnson, Nancy  
Pelletier, Arthur  
Smith, Marjorie  
Wall, Janet

Brown, Julie  
Grassie, Anne  
Knowles, William  
Rous, Emma  
Snyder, Clair  
Woods, Phyllis

### SULLIVAN

Allison, David  
Flint, Gordon Sr  
Phinizy, James

Burling, Peter  
Franklin, Peter  
Rodeschin, Beverly

Cloutier, John  
Jones, Constance

Ferland, Brenda  
Leone, Richard

### NAYS 3

### BELKNAP

None

### CARROLL

None

### CHESHIRE

None

### COOS

None

### GRAFTON

None

### HILLSBOROUGH

None

### MERRIMACK

None

### ROCKINGHAM

None

### STRAFFORD

Bemis, Alan

Kaen, Naida

Keans, Sandra

### SULLIVAN

None

and the Committee of Conference Report was adopted.

Rep. Bemis voted Nay and intended to vote Yea.

Rep. Wheeler moved that the remarks of Rep. Kurk be printed in the Permanent Journal.

Adopted.

### REMARKS

Rep. Kurk: Thank you, Mr. Speaker. Mr. Speaker, the conferees on SB 376 accepted the House version of the bill and added three minor clarifying amendments that are respectfully recommended for passage by the House. First, with respect to allowing certain rural acute care hospitals to qualify for additional federal Medicaid dollars, we named the hospitals that were eligible. Androscoggin Valley and Franklin Regional and placed a ten bed limit on any new skilled nursing unit that either

hospital might establish. Second, with respect to the state's participation in any federal Medicaid modernization program, conferees agreed to retain the requirement of legislative approval that was so strongly supported in the House. In doing so, we made clear that the legislative approval is required for any proposal that would place a cap on the yearly allotment of Medicaid dollars to New Hampshire which is a so-called Medicaid block grant. We also made clear that the legislative approval is required for any proposal that would change the percentage of federal-state cost sharing for the Medicaid program which is largely at a 50-50 level at this time. And third, with respect to the current nursing home bed moratorium, the conference committee clarified that the moratorium does indeed apply to new rehabilitation beds. On behalf of the House conferees, I respectfully recommend that SB 376 conference committee report be passed by the full House; and, Mr. Speaker, I would like a roll call vote on this.

### COMMITTEE OF CONFERENCE REPORT ON SB 382

Committee of Conference on **SB 382-FN-L**, relative to medical service rates for state prisoners. Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 651-A:10-a as inserted by section 3 of the bill by inserting after paragraph VII the following new paragraph:

VIII. The commissioner of the department of health and human services shall enter into a memorandum of understanding with the commissioner of the department of corrections specifying that the department of corrections shall be responsible for providing the funding necessary to meet the state's share of all Medicaid costs for any inmate granted medical parole under this section.

Amend the bill by replacing all after section 4 with the following:

5 Repeal. RSA 651-A:10-a, VIII, relative to a memorandum of understanding between the commissioners of health and human services and corrections, is repealed.

6 Effective Date.

I. Section 5 of this act shall take effect July 1, 2005.

II. The remainder of this act shall take effect upon its passage.

Conferees: Sens. Flanders, Dist. 7; Boyce, Dist. 4; and Cohen, Dist. 24

Conferees: Reps. Elliott, Hills. 42; Emerton, Hills. 48; Rodeschin, Sull. 20; and Tholl, Coos 2

Adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 421

Committee of Conference on **SB 421**, relative to charter schools.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 194-B:3-a, IV as inserted by section 5 of the bill by replacing it with the following:

IV. The state board of education shall either approve or deny an application ~~[based on]~~ **using reasonable discretion [the criteria] in the assessment of the elements** set forth in RSA ~~[194-B:1-a]~~ **194-B:3, II, (a)-(bb) and (dd)**. Approval of an application constitutes the granting of charter status and the right to operate as a **public** charter school. The state board of education shall notify all applicants of its decision **in writing**, and shall include in any notice of denial a **written** statement **specifying any areas deemed deficient, the reasons for the denial, and explaining** that the applicant may reapply under RSA 194-B:3, RSA 194-B:4, or under this section in a subsequent year. Amend RSA 194-B:5, III as inserted by section 7 of the bill by replacing it with the following:

III. **Notwithstanding RSA 194-B:1, III**, an established charter school shall be a corporation, **which shall be registered with the secretary of state after receiving approval under this chapter but before its first day of actual operation**, with authority necessary or desirable to carry out its charter program including, but not limited to, the following:



Conferees: Sens. O'Hearn, Dist. 12; Green, Dist. 6; and Estabrook, Dist. 21

Conferees: Reps. M. Carter, Hills. 44; Naro, Graf. 15; Alger, Graf. 14; and J. T. Dunn, Ches. 25  
On a division vote, 258 members having voted in the affirmative and 79 in the negative, the Committee of Conference Report was adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 423

Committee of Conference on **SB 423**, relative to confidentiality and workers' compensation.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 273:5, II as inserted by section I of the bill by replacing it with the following:

II. Notwithstanding paragraph I or any other provision of law to the contrary, the department of labor shall maintain the confidentiality of the names, addresses, and medical records of workers' compensation claimants and the worker's "First Report of Injury" filed with the department.

Conferees: Sens. Flanders, Dist. 7; Clegg, Dist. 14; and Foster, Dist. 13

Conferees: Reps. Woods, Straf. 69; Lasky, Hills. 65; Haytayan, Hills. 46; and Rowe, Hills. 47  
Adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 449

Committee of Conference on **SB 449**, relative to fluoridation of municipally-owned public water systems.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend paragraph I of section 7 of the bill by replacing it with the following:

I. Notwithstanding RSA 485:14-a, the secretary of state shall place the following question on the September 2004 state primary election ballot and on a separate ballot for undeclared voters for the city of Manchester and other municipalities whose voters directly receive water from the city of Manchester, water works department: "Shall fluoride be used in the Manchester public water system?"

Conferees: Sens. Prescott, Dist. 23; Johnson, Dist. 2; and D'Allesandro, Dist. 20

Conferees: Reps. Brundige, Hills. 58; Gillick, Rock. 85; Dowd, Rock 77; and Osborne, Merr. 40  
Rep. Hagan spoke against and yielded to questions.

Rep. Paul Harrington spoke against.

### MOTION TO LAY ON THE TABLE

Rep. Paul Harrington moved that **SB 449**, relative to fluoridation of municipally-owned public water systems, be laid on the table.

On a division vote 60 members having voted in the affirmative and 269 in the negative, the motion failed.

The question now being adoption of the Committee of Conference Report.

Rep. Patten spoke in favor.

Adopted.

Rep. Craig declared a conflict of interest and did not participate.

### COMMITTEE OF CONFERENCE REPORT ON SB 481

Committee of Conference on **SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 485-E:12 as inserted by section 1 of the bill by replacing it with the following:

485-E:12 Outfall Pipe; Legislative Approval Required. EAST shall obtain approval from the legislature before constructing a regional outfall sewer pipe.

Conferees: Sens. Prescott, Dist. 23; Green, Dist. 6; and Below, Dist. 5

Conferees: Reps. Ahern, Belk. 29; Philbrick, Carr. 5; Williams, Graf. 16; and Rous, Straf. 72

Adopted.

### COMMITTEE OF CONFERENCE REPORT ON SB 490

Committee of Conference on **SB 490-FN**, relative to the Help America Vote Act.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 4 with the following:

4 Preparing Checklist. Amend RSA 654:25 to read as follows:

654:25 Preparing Checklist.

[E:] The secretary of state shall issue and distribute guidelines for the composition and style of checklists and for the maintenance of data related to checklists by which the supervisors of the checklist shall compile and correct the checklist. Such guidelines shall specify the information which will be maintained and updated by the supervisors. The secretary shall establish standard forms and procedures for the use of the supervisors for the maintenance of such information. The information to be maintained and updated shall include the full name, address, and party affiliation, if any, of each voter on the checklist and such other information as the secretary requires. ~~[The supervisors shall use the information so maintained and updated to prepare the checklist for all state elections. Except as provided in paragraph H:] Every checklist used at any [state] election shall contain [as a minimum] the full name, address, [and mailing address if different,] and party affiliation, if any, of each voter on the checklist. The *name and* address [and mailing address, if different,] of a voter shall not appear on the checklist at the request of the voter if the voter presents to the supervisors of the checklist a valid protective order pursuant to RSA 173-B. [A voter who presents a valid protective order may, however, request that a mailing address, if different, be maintained on the checklist. If a voter who presents a valid protective order requests that no address be maintained on the checklist, the supervisors of the checklist may nonetheless maintain a designation on the checklist which indicates that no address is required for that voter.] *The name, address, and mailing address, if different, of such a voter shall be maintained on a separate list of voters, which shall be nonpublic and not subject to RSA 91-A. If it is necessary to establish such a nonpublic list, the public checklist shall be marked at the end with a notation of the number of voters whose names are maintained on the nonpublic list.*~~

~~[H: If a municipality prepares a separate checklist solely for use at a state election, such checklist may omit a voter's mailing address, if different.]~~

Amend the bill by replacing section 6 with the following:

6 Preparation of Voting Materials; Squares. Amend RSA 656:8 to read as follows:

656:8 Squares. Directly at the right of the name of each candidate there shall be a square, *box, oval, or other appropriate symbol for directing voters where to make the appropriate mark*; except that, in the case of president and vice-president of the United States, one square, *box, oval, or other appropriate symbol* shall suffice which shall be placed opposite the designation "President and Vice-President of the United States".

Amend the bill by replacing section 8 with the following:

8 Manchester; Ward Boundaries. For purposes of elections for state senator and state representative conducted after the effective date of this act, ward boundaries for senate and representative districts in Manchester shall be the ward boundaries established by the city of Manchester in its charter.

Conferees: Sens. Boyce, Dist. 4; Martel, Dist. 18; and Larsen, Dist. 15

Conferees: Reps. Drisko, Hills. 46; Vaillancourt, Hills. 56; Dorsett, Graf. 16; and Buckley, Hills. 56

Adopted.

**COMMITTEE OF CONFERENCE REPORT ON SB 534**

Committee of Conference on **SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 20 with the following:

20 Transfer of Certain Programs From Office of State Planning and Energy Programs to Department of Environmental Services.

I. Notwithstanding any provision of law to the contrary, all of the functions, powers, duties, and responsibilities of the office of state planning and energy programs relating to the coastal zone management program and the New Hampshire estuaries project shall be transferred to the department of environmental services. The transfer provided for in this section shall include, but not be limited to, the following personnel from the coastal zone management program: position numbers 40468, 40469, 10026, 10027, 30001, 9T006, 16669 and 16670 and from the estuaries project: position numbers 9T003, 9T005 and 8Temp. The transfer provided in this section, shall include all of the equipment, books, papers, records, unexpended appropriations, and other available funds in any account or subdivision of an account of the office of state planning and energy programs related to the above functions and authorized for use by the office of state planning and energy programs for said programs.

II. All existing rules, statutory responsibilities, regulations, and procedures in effect, in operation, or adopted in or by the former coastal zone management program and New Hampshire estuaries program are transferred to the department of environmental services, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

III. The department of environmental services shall be considered a temporary host for the New Hampshire estuaries project. The management committee of the estuaries project shall report to the speaker of the house of representatives and the president of the senate by December 1, 2004 recommending a permanent host for the project. Nothing in this section shall preclude the department of environmental services from becoming the permanent host.

Amend the bill by replacing all after section 39 with the following:

40 Position Transferred from Department of Resources and Economic Development to Department of Cultural Resources; New Hampshire Film and Television Commission. Position number 41616, related to the New Hampshire film and television commission, is transferred from the department of resources and economic development to the department of cultural resources.

41 Appointments; Department of Education. RSA 21-N:3, I and II are repealed and reenacted to read as follows:

I. The governor, after consultation with the board of education, shall appoint the commissioner and the deputy commissioner of the department of education with the consent of council. Each shall serve for a term of 4 years. The commissioner and the deputy commissioner may succeed himself or herself, if reappointed. The commissioner and deputy commissioner shall be qualified to hold their positions by reason of education and experience.

II. The commissioner, after consultation with the board of education, shall nominate each division director for appointment by the governor and council. The division directors shall serve for a term of 4 years. They may succeed themselves, if reappointed. The directors shall be qualified to hold their respective positions by reason of education and experience.

42 Applicability. Section 41 of this act shall take effect upon the date of the expiration of each of the terms of the current commissioner, deputy commissioner, and division directors of the department of education.

43 New Paragraph; Major Capital Projects. Amend RSA 228:4 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of law, the commissioner is authorized to use the design build method of contracting for any buildings that are part of capital projects. The capital budget overview committee shall approve all such plans prior to construction.

44 Reference Changes; Office of State Planning and Energy Programs Renamed Office of Energy and Planning. Amend the following RSA provisions by replacing "office of state planning and energy programs" with "office of energy and planning": the chapter heading of RSA 4-C; RSA 4-C:1, I; 4-C:1, II; 4-C:2; 4-C:3; 4-C:4; 4-C:5; 4-C:6; 4-C:6-a; 4-C:7; the introductory paragraph of 4-C:8; 4-C:9; 4-C:9-a; 4-C:10; 4-C:19; 9-A:2; 9-A:4; 12-G:13; 12-K:2, V; 12-K:3, IV; 12-K:6; 12-K:8; 12-K:9; 17-M:2, V; 21-O:5-a, I(d); 21-O:7, I(b); 21-P:48, I(h); 36:45; 36:46; 36:47, III; 36-B:1; 78-A:25; 78-A:26, I(b); 125-G:2, VII; 125-G:3; 125-G:5, I; 125-G:16; 126-A:4, V(b); 147-B:4, III; 162-C:1, I; 162-H:3; 162-L:15, II(b); 162-L:19; 204-C:8, V; 216-J:2, I(g); 227-G:2, XII; 227-M:4, II(d); 216-A:3-c, V; 216-F:5, I; 217-A:3, II; 227-C:4, XIII(d); 227-E:3; 227-E:6; 233-A:2; 235:23, I; 238:20, I(d); 238:23; 261:153, V; 270:65; 270:67; 270:68; 270:71, II; 374:22-J, XIII; 432:19; 483:8, II; 483:10, I; 483:10-a; 483-A:6, III; 483-A:7; 483-B:4, XVI(c); 483-B:5, I; 483-B:12, III; 483-B:16; 483-B:19; 485-A:4, IX; 485-C:3, III; 673:3-a; 674:3; 675:9.

45 Reference Changes; Office of State Planning and Energy Programs Renamed Office of Energy and Planning. Amend RSA 4-C:8, III to read as follows:

III. Provide computer interface capability among and between each regional planning commission, the office of [state] **energy and planning** [~~and energy programs~~], and state data collection and storage sources. The computer interface capability shall be used by regional planning commissions to respond to municipal requests for assistance in the preparation and amending of master plans and in the evaluation of municipal infrastructure needs. The computer interface capability shall also be used by regional planning commissions to develop and update regional master plans, as provided in RSA 36:47. The computer equipment used for the purposes of this paragraph shall be compatible and able to interface with the office of [state planning and energy programs] **energy and planning's** geographic information system, as well as with other similar state computerized data collection and storage sources.

46 Transition; Documents, Forms, and Supplies.

I. Current documents, forms, or any other supplies with the name office of state planning and energy programs may be used by the office of energy and planning until exhausted.

II. After all documents, forms, or any other supplies with the name office of state planning and energy programs have been exhausted, the official name of the office shall be the office of energy and planning for the purposes of all correspondence and advertising.

47 Land Conservation Investment Program; Monitoring Endowment. Amend RSA 162-C:8, I to read as follows:

I. The monitoring endowment established by the board of directors pursuant to former RSA 221-A:5, III shall be maintained in perpetuity and **any interest generated thereon** shall be utilized by the council only for the purposes of monitoring and enforcing the property rights of persons with ownership interests in property acquired through the former land conservation investment program [~~and for the purposes of RSA 227-M:12~~]. ***Additional contributions to the endowment pursuant to RSA 227-M:12, I and any interest generated thereon, shall be utilized only for the purposes of RSA 227-M:12, II. Additional gifts, donations and grants to the endowment may be utilized for monitoring and enforcing other land conservation interests that may be acquired by the state of New Hampshire.***

48 Police Officer; Definition. Amend RSA 100-A:1, VII-a (b) to read as follows:

(b) Any bingo or lucky 7 inspector, security officer appointed pursuant to RSA [~~135:41~~] **21-P:7-b**, any juvenile probation and parole officer, or any person employed in the bureau of trails of the department of resources and economic development; or

49 New Paragraph; Department of Safety; Duties of Commissioner. Amend RSA 21-P:4 by inserting after paragraph X the following new paragraph:

XI. Have the discretion to grant to security officers of the New Hampshire hospital security force such titles, ranks and police powers as the commissioner deems necessary up to and including that of ex officio constables including the power of arrest for violations of the criminal and motor vehicle laws and the power to serve criminal process, and may limit such powers as deemed necessary. They shall have general police powers on the state office campus and New Hampshire hospital grounds and when in hot pursuit of a person who has committed a crime on the campus or escaped from the hospital, and when acting to transport a patient to or from the hospital, the court or another mental health facility.

50 New Sections; Department of Safety; New Hampshire Hospital Security Force. Amend RSA 21-P by inserting after section 7-a the following new sections:

21-P:7-b New Hampshire Hospital Security Force. The commissioner of safety is authorized to organize a hospital security force for the purpose of patrolling the hospital's buildings, roads, and grounds of the campus of the state office park south and providing for general security on the campus. The hospital security force shall be under the immediate control of and responsible to the commissioner of safety or his or her designee.

21-P:7-c Authority of Hospital Security Force Officers; Memorandum of Understanding; Funding.

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force hired after the effective date of this paragraph shall be required to meet the training standards required generally of police officers by the police standards and training council pursuant to RSA 188-F and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the superintendent of the New Hampshire hospital.

II. The commissioner of the department of health and human services shall enter into a memorandum of understanding with the commissioner of safety for the purposes of delineating the functions, duties, and responsibilities of the department of safety in regard to the provision of security and dispatch services to the New Hampshire hospital. The memorandum of understanding shall include, but not be limited to: responding to emergencies within New Hampshire hospital, maintaining the security of the hospital buildings, insuring the safety of patients, staff and visitors, apprehending involuntarily committed persons who leave the hospital without authorization, accepting custody of involuntary admissions, transporting patients for medical, legal and other purposes, investigating cases of abuse, neglect, sexual assault and other criminal conduct, providing training and conducting searches and seizures of contraband. In addition, the department of safety shall provide dispatch services including, but not limited to: monitoring hospital access between 8 p.m. and 8 a.m. operating and monitoring video security systems, receiving incoming communications, assessing the priority of the call and dispatching appropriate assistance, coordinating emergency preparedness procedures, receiving incoming fire calls and alarms and operating the switchboard between 8 p.m. and 8 a.m. and at other times as needed.

III. Within the limits of funds budgeted for hospital security force positions, the department of health and human services shall maintain the funding for the hospital security force and pay the department of safety for providing these services.

51 Transfer of Functions, Positions, Equipment, Records and Accounts; Rules Continued.

I. Notwithstanding any provision of law to the contrary, all of the functions, positions, powers, duties and responsibilities of the department of health and human services, division of behavioral health, New Hampshire hospital security force used for the provision of security to the hospital's building, roads and grounds of the campus of the state office park south and providing for the general security on campus shall be transferred to the department of safety. The following personnel shall be transferred from the department of health and human services, division of behavioral health to the department of safety: position numbers: 15799, 30896, 15787, 16389, 30807, 15789, 15820, 15763, 15736, 30799, 15843, 15710, 15839. The transfer provided in this section shall include all of the equipment, books, papers, and records of the department of health and human services, division of behavioral health, New Hampshire hospital related to the above functions and authorized for use by the New Hampshire hospital security force.

II. All existing rules, statutory responsibilities, regulations and procedures in effect, in operation or adopted in or by the department of health and human services, division of behavioral health, New Hampshire hospital security force are transferred to the department of safety, and are declared in effect and shall continue in effect until rescinded, revised, or amended in accordance with applicable law.

52 Repeal. The following are repealed:

I. RSA 135:41, relative to hospital security force.

II. RSA 135:42, relative to authority.

III. RSA 135:43, relative to training.

53 Report Required; Capitol Police Force. The commissioner of safety and the commissioner of health and human services shall report by December 1, 2004 to the speaker and the senate president with a proposal for establishing a capitol police force. Such police force shall be responsible for the security of all state buildings in the city of Concord.

54 New Sections; General Administration of Regulatory Boards and Commissions; Certain Appeals; Expansions in Scope of Practice. Amend RSA 332-G by inserting after section 4 the following new sections:

332-G:5 Certain Appeals. Notwithstanding any other provision of law to the contrary, any person affected by the final decision of the electricians' board, established under RSA 319-C:4, or the state board for the licensing and regulation of plumbers, established under RSA 329-A:3, may appeal such final decision to the state building code review board established under RSA 155-A:10.

332-G:6 Scope of Practice. Any expansion in the scope of practice of a profession regulated under this title shall be adopted by legislation and not by administrative rule.

55 New Section; State Building Code Review Board; Appeals of Decisions of the Electricians' Board and the State Board for the Licensing and Regulation of Plumbers. Amend RSA 155-A by inserting after section 11 the following new section:

155-A:11-a Appeal of Decisions of the Electricians' Board and the State Board for the Licensing and Regulation of Plumbers.

I. The board shall hear appeals of final decisions of the board established under RSA 319-C:4 and the board established under RSA 329-A:3.

II. The board shall hold a hearing within 40 days of the receipt of an appeal, unless an extension of time has been granted by the board at the written request of one of the parties and shall render a decision within 30 days of the conclusion of the hearing.

56 New Section; Appeals From Final Decisions of Electricians' Board. Amend RSA 319-C by inserting after section 12-a the following new section:

319-C:12-b Appeals. Any person affected by a final decision of the board may appeal such final decision to the state building code review board, pursuant to RSA 155-A:11-a.

57 New Section; Appeals From Final Decisions of the State Board for the Licensing and Regulation of Plumbers. Amend RSA 329-A by inserting after section 12 the following new section:

329-A:12-a Appeals. Any person affected by a final decision of the board may appeal such final decision to the state building code review board, pursuant to RSA 155-A:11-a.

58 Study Committee on Office of Administrative Adjudications.

I. There is established a committee to study transferring the adjudicatory functions of occupational regulatory boards and commissions to an office of administrative adjudications.

II.(a) The members of the committee shall be as follows:

(1) Three members of the house of representatives, appointed by the speaker of the house.

(2) Three members of the senate, appointed by the president of the senate.

(b) Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

III. The committee shall:

(a) Study the issue of creating an office of administrative adjudication to conduct all disciplinary proceedings currently conducted by occupational regulatory boards and commissions. This study shall include the analysis of the staffing and budget requirements of such an office, and the role, if any, of regulatory board members in any disciplinary action.

(b) Clearly define which boards would be affected by this change.

(c) Study any other matter the committee deems relevant.

IV. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named house member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

V. The committee shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2004.

59 Effective Date.

I. Sections 27, 32-35, and 53-58 of this act shall take effect upon its passage.

II. Sections 1-17 and 48-52 of this act shall take effect January 1, 2005.

III. The remainder of this act shall take effect July 1, 2004.

## AMENDED ANALYSIS

This bill:

I. Transfers administration and enforcement of bingo and lucky 7 to the pari-mutuel commission.

II. Transfers the bureau of environmental and occupational health from the department of health and human services to the department of environmental services.

III. Authorizes the commissioner of the department of environmental services to nominate certain division directors.

IV. Transfers certain programs from the office of state planning and energy programs to the department of environmental services and changes the name of the office of state planning and energy programs to the office of energy and planning.

V. Requires a review of the salaries of the commissioner and assistant commissioner of the department of environmental services.

VI. Removes the office of state planning and energy programs from the permitting process for public and congregate moorings.

VII. Establishes a committee to study the reorganization of the department of revenue administration.

VIII. Changes the name of the division of aeronautics to the division of aeronautics, rail, and transit.

IX. Establishes a commission to study transferring the division of public works from the department of transportation to a new bureau of public works in the department of administrative services and reorganizing divisions within the department of transportation; and changes obsolete references to the department of public works and highways to the department of transportation.

X. Transfers certain state house rooms from the executive branch to the legislative branch.

XI. Transfers bioterrorism positions from the department of health and human services to the department of safety.

XII. Transfers the New Hampshire film and television commission from the department of resources and economic development to the department of cultural resources.

XIII. Authorizes the commissioner of transportation to use the design build method of contracting for buildings that are part of capital projects.

XIV. Changes the appointment authority for department of education officials.

XV. Clarifies permissible uses of the land conservation investment program monitoring endowment.

XVI. Transfers authority over the New Hampshire hospital security force from the department of health and human services to the department of safety.

XVII. Requires the commissioner of safety and the commissioner of the department of health and human services to report to the legislature on a proposal to establish a capitol police force.

XVIII. Establishes an appeal process to the state building code review board for persons affected by final decisions of the electricians' board and the state board for the licensing and regulation of plumbers.

XIX. Requires any expansion in the scope of practice of a profession regulated by an occupational regulatory board or commission to be adopted by legislation and not by administrative rule.

XX. Establishes a committee to study transferring the adjudicatory functions of occupational regulatory boards and commissions to an office of administrative adjudications.

Conferees: Sens. Clegg, Dist. 14; Prescott, Dist. 23; and D'Allesandro, Dist. 20

Conferees: Reps. O'Neil, Rock. 85; Stone, Rock. 73; R. Wheeler, Hills. 48; and F. Sullivan, Hills. 52 Adopted.

## **SENATE BILL REMOVED FROM CONSENT CALENDAR COMMITTEE OF CONFERENCE REPORT ON SB 478**

Committee of Conference on *SB 478-FN*, relative to penalties for DWI offenses.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

Conferees: Sens. Barnes, Dist. 17; Clegg, Dist. 14; and Eaton, Dist. 10

Conferees: Reps. Tholl, Coos 2; Welch, Rock. 79; Nedeau, Belk. 30; and Pantelakos, Rock. 86

Reps. Bruno and Pilliod spoke against.

Reps. Tholl and Welch spoke in favor.

Rep. Nedeau requested a roll call; sufficiently seconded.

The question being adoption of the Committee of Conference Report.

**YEAS 211 NAYS 119****YEAS 211****BELKNAP**

Ahern, Omer Jr  
Fitzgerald, James  
Russell, David

Allen, Janet  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Pilliod, James  
Whalley, Michael

Boyce, Laurie  
Rice, Thomas

**CARROLL**

Kenney, Bettie  
Patten, Betsey

McConkey, Mark

Morrow, Harry

Mock, Henry

**CHESHIRE**

Allen, Peter  
Manning, Joseph  
Royce, H Charles

Dunn, James  
Mitchell, McKim  
Weed, Charles

Fish, Douglas  
Pratt, Irene

Laurent, John  
Richardson, Barbara

**COOS**

King, Frederick  
Tholl, John Jr

Mears, Edgar

Richardson, Herbert

Stohl, Eric

**GRAFTON**

Akins, Ralph  
Cooney, Mary  
Naro, Debra  
Sorg, Gregory

Alger, John  
Densmore, Edward  
Scovner, Nancy  
Williams, Burton

Almy, Susan  
Diamond, Estelle  
Sokol, Hilda

Barker, Robert  
Hammond, Lee  
Solomon, Peter

**HILLSBOROUGH**

Adams, Jarvis  
Beaton, William  
Buckley, Raymond  
Chabot, Robert  
Cote, Peter  
Dionne, Kimberley  
Fields, Dennis  
Gorman, Mary  
Hansen, Ryan  
Hunter, Bruce  
Jean, Claudette  
McDonough-Wallace, Alice  
Michon, Stephen  
Pilotte, Maurice  
Rowe, Robert  
Sullivan, Peter

Allan, Nelson  
Bergin, Peter  
Cail, Kenneth  
Christensen, D L Chris  
Coughlin, Pamela  
Dokmo, Cynthia  
Ford, Nancy  
Graham, John  
Haytayan, Harry Jr  
Infantine, William  
Kurk, Neal  
McElroy, Henry Jr  
Mosher, William  
Price, Pamela  
Schulze, Joan  
Sweeney, Cynthia

Balcom, John  
Brassard, Paul  
Carter, Jeffrey  
Clemons, Jane  
Crane, Elenore Casey  
Drisko, Richard  
Gargas, Carolyn  
Greenberg, Gary  
Hinkle, Peyton  
Irwin, Anne-Marie  
Lasky, Bette  
McHugh, Claire  
O'Brien, Lori  
Reeves, Sandra  
Stepanek, Stephen  
Tahir, Saghir

Batula, Peter  
Brundige, Robert  
Carter, Mark  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Gonzalez, Carlos  
Hagan, Barbara  
Hopper, Gary  
Jasper, Shawn  
Lefebvre, Roland  
Mercer, Robert  
Pepino, Leo  
Ross, Lawrence  
Sullivan, Jeffrey  
Wheeler, Robert

**MERRIMACK**

Anderson, Eric  
Davis, Frank  
Gile, Mary  
Jacobson, Alf  
Leber, William  
Osborne, Jessie  
Reed, Dennis  
Wallner, Mary Jane

Blanchard, Elizabeth  
DeJoie, John  
Hager, Elizabeth  
Kenison, Leon  
Lockwood, Priscilla  
Owen, Derek  
Rodd, Beth

Brueggemann, Donald  
Fraser, Leo Jr  
Hamm, Christine  
Kennedy, Richard  
MacKay, James  
Potter, Frances  
Rush, Deanna

Currier, David  
French, Barbara  
Hess, David  
Langer, Ray  
Oliver, James  
Reardon, Tara  
Seldin, Gloria

**ROCKINGHAM**

Abbott, Dennis  
Bridle, Russell  
Coes, Betsy

Allen, Mary  
Carson, Sharon  
Corbin, Corey

Bicknell, Elbert  
Casey, Kimberley  
DiFruscia, Anthony

Blanchard, MaryAnn  
Clark, Vivian  
Dodge, Robert



Dowd, John  
 Gilbert, Karl  
 Griffin, Mary  
 Introne, Robert  
 Katsakiores, Phyllis  
 Major, Norman  
 Noyes, Richard  
 Scamman, Stella  
 Waterhouse, Kevin  
 Weyler, Kenneth

Dumaine, Dudley  
 Gillick, Thomas  
 Hamel, Albert  
 Johnson, Robert  
 Kobel, Rudolph  
 McKinney, Betsy  
 O'Neil, Michael  
 Smith, Paul  
 Weare, E. Albert  
 Wiley, Robert

Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Johnson, Rogers  
 Langone, John  
 Morris, Richard  
 Packard, Sherman  
 Stone, Joseph  
 Welch, David  
 Winchell, George

Gilbert, Jeffrey  
 Gould, Kenneth  
 Ingram, Russell  
 Katsakiores, George  
 Letourneau, Robert  
 Norelli, Terie  
 Pantelakos, Laura  
 Tufts, J. Arthur  
 Weldy, Norman Jr

### STRAFFORD

Albert, Russell  
 Dunlap, Patricia  
 Musler, George  
 Smith, Marjorie

Bemis, Alan  
 Johnson, Nancy  
 Pelletier, Arthur  
 Snyder, Clair

Berube, Roger  
 Knowles, William  
 Rous, Emma  
 Wall, Janet

Creteau, Irene  
 Miller, Joseph  
 Schmidt, Peter

### SULLIVAN

Allison, David  
 Jones, Constance

Cloutier, John  
 Leone, Richard

Flint, Gordon Sr  
 Rodeschin, Beverly

Franklin, Peter

### NAYS 119

### BELKNAP

Clark, Charles

Lawton, David

Wendelboe, Fran

### CARROLL

Babson, David Jr

Derby, Mark

Dickinson, Howard

Olimpio, J. Lisbeth

### CHESHIRE

Dexter, Judson  
 Liebl, George  
 Tilton, Anna

Eaton, Daniel  
 Meader, David  
 Webber, Amy

Espiefs, Peter  
 Parkhurst, Henry

Hunt, John  
 Robertson, Timothy

### COOS

Brady, Mark

Poulin, Richard

Pratt, Leighton

### GRAFTON

Benn, Bernard  
 Gionet, Edmond  
 Maybeck, Margie

Dorsett, Andrew  
 Giuda, Robert  
 Nordgren, Sharon

Dudley, Terri  
 Ham, Bonnie

Eaton, Stephanie  
 Ingbreton, Paul

### HILLSBOROUGH

Allen, Timothy  
 Barry, J. Gail  
 Carlson, Donald  
 Craig, James  
 Haley, Robert  
 Johnson, Lionel  
 Martin, Mary Ellen  
 Moran, Edward  
 Pappas, Christopher  
 Slocum, Lee  
 Vaillancourt, Steve

Artz, Lawrence  
 Bergeron, Jean-Guy  
 Cernota, Albert  
 Elliott, Larry  
 Harrington, Paul  
 Kopka, Angeline  
 McRae, Karen  
 Movsesian, Lori  
 Pappas, Marc  
 Souza, Kathleen  
 Wheeler, James

Balboni, Michael  
 Bruno, Pierre  
 Christiansen, Lars  
 Gibson, John  
 Hawkins, Ken  
 LaFlamme, Paul  
 Messier, Irene  
 Ober, Russell III  
 Scanlon, Michael  
 Spiess, Paul

Baroody, Benjamin  
 Buhlman, David  
 Clayton, William  
 Goyette, Peter Jr  
 Holden, Randolph  
 Luebker, Bernard  
 Mooney, Maureen  
 Palangas, Eric  
 Shaw, Barbara  
 Sullivan, Francis

### MERRIMACK

Bouchard, Candace  
 L'Heureux, Stephen  
 Perkins, Randy

DeStefano, Stephen  
 Marple, Richard  
 Soltani, Tony

Field, William  
 McCormick, Tom

Foley, Albert  
 Nutter, Edward

**ROCKINGHAM**

Belanger, Ronald	Cady, Harriet	Camm, Kevin	Cooney, Richard
Duffy, James	Fesh, Bob	Francoeur, Sheila	Holland, James Jr
Hughes, Daniel	Langley, Jane	McCann, Richard	McEachern, Paul
McMahon, Charles	Priestley, Anne	Putnam, Ed II	Quandt, Matthew
Rausch, James	Robertson, Carl	Roessner, Kurt	Shultis, Elizabeth
Smith, Donald	Splaine, James	Zolla, William	

**STRAFFORD**

Bickford, David	Brown, Julie	Cataldo, Sam	Easson, Timothy
Harrington, Michael	Kaen, Naida	Keans, Sandra	Scott, David
Spang, Judith	Twombly, James	Woods, Phyllis	

**SULLIVAN**

Burling, Peter                      Ferland, Brenda                      Phinizy, James  
and the Committee of Conference Report was adopted.

**SENATE MESSAGE****ADOPTION OF COMMITTEE OF CONFERENCE REPORTS**

**HB 176**, relative to listing candidates on ballots.

**HB 243**, relative to motor vehicle exhaust noise standards.

**HB 369**, relative to the Henniker and Hillsborough district courts.

**HB 384**, relative to financial affidavits in domestic relations cases.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.

**HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

**HB 618-FN-A**, making technical corrections to certain local property tax laws.

**HB 640-FN**, relative to post-conviction DNA testing.

**HB 643-FN**, relative to the family division of the courts.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.

**HB 698-FN**, relative to electronic toll collection.

**HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.

**HB 1162**, relative to school district policies on bullying.

**HB 1165**, relative to extending domestic violence protection orders.

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts.

**HB 1276-FN**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district.

**HB 1282**, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.

**HB 1293**, relative to emission control equipment for certain vehicles.

**HB 1295** relative to certain court records.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.

**HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks.

**HB 1348-FN**, relative to registration of business organizations.

**HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

**HB 1380-FN**, relative to unauthorized video surveillance.

**HB 1401-FN**, relative to limiting the use of traffic signal preemption devices.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts.

**HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

## REGULAR CALENDAR

### COMMITTEE OF CONFERENCE REPORTS ON HOUSE BILLS

**HB 176**, relative to listing candidates on ballots and relative to instructions to voters. (Report printed SJ 05/25/04)

Adopted

**HB 243**, relative to motor vehicle exhaust noise standards. (Report printed SJ 05/25/04)

Rep. Packard yielded to questions.

Adopted.

**HB 369**, relative to the Henniker and Hillsborough district courts. (Report printed SJ 05/25/04)

Rep. Mock yielded to questions.

Adopted.

### (Rep. Burling in the Chair)

**HB 384**, relative to financial affidavits in domestic relations cases. (Report printed SJ 05/25/04)

Adopted.

**HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration. (Report printed SJ 05/25/04)

Adopted.

**HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools. (Report printed SJ 05/25/04)

Adopted.

**HB 618-FN-A**, making technical corrections to certain local property tax law. (Report printed SJ 05/25/04)

Adopted.

**HB 640-FN**, relative to post-conviction DNA testing. (Report printed SJ 05/25/04)

Adopted.

**HB 643-FN**, relative to the family division of the courts. (Report printed SJ 05/25/04)

Rep. Packard yielded to questions.

Adopted.

**HB 651-FN**, relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions. (Report printed SJ 05/25/04)

Adopted.

### (Speaker Chandler in the Chair)

**HB 698-FN**, relative to electronic toll collection. (Report printed SJ 05/25/04)

Rep. Weyler yielded to questions.

Adopted.

**HB 713-FN**, relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings. (Report printed SJ 05/25/04)  
Adopted.

**HB 727-FN-L**, establishing a legislative oversight committee for the school administrative unit system. (Report printed SJ 05/25/04)  
Adopted.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning. (Report printed SJ 05/25/04)  
Rep. Spang spoke against.  
Rep. Royce spoke in favor.  
Adopted.

**HB 1162**, relative to school district policies on bullying. (Report printed SJ 05/25/04)  
Adopted.

**HB 1165**, relative to extending domestic violence protection orders. (Report printed SJ 05/25/04)  
Adopted.

**HB 1262**, establishing a committee to study ways to encourage municipal recycling efforts. (Report printed SJ 05/25/04)  
Adopted.

**HB 1276-FN-L**, relative to special number plates for veterans and establishing a committee to study establishing special number plates for veterans who were awarded the Bronze Star or the Silver Star. (Report printed SJ 05/25/04)  
Adopted.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district. (Report printed SJ 05/25/04)  
Adopted.

**HB 1282**, authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees. (Report printed SJ 05/25/04)  
Adopted.

**HB 1293**, relative to emission control equipment for certain vehicles. (Report printed SJ 05/25/04)  
Adopted.

**HB 1295**, relative to certain court records. (Report printed SJ 05/25/04)  
Adopted.

**HB 1296**, establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food. (Report printed SJ 05/25/04)  
Adopted.

**HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks. (Report printed SJ 05/25/04)  
Adopted.

**HB 1348-FN**, relative to registration of business organizations. (Report printed SJ 05/25/04)  
Adopted.

**HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (Report printed SJ 05/25/04)  
Adopted.

**HB 1380-FN**, relative to unauthorized video surveillance. (Report printed SJ 05/25/04)  
Adopted.

**HB 1401-FN**, limiting the use of traffic signal preemptive devices. (Report printed SJ 05/25/04)  
 Rep. Michael Harrington spoke against.  
 Rep. Packard spoke in favor and yielded to questions.  
 Rep. Royce yielded to questions.  
 On a division vote, 189 members having voted in the affirmative and 125 in the negative, the Committee of Conference Report was adopted.

**HB 1408-FN**, relative to reporting requirements for certain nonprofit organization, including health care charitable trusts. (Report printed SJ 05/25/04)  
 Adopted.

**HB 1411-FN-A**, establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system. (Report printed SJ 05/25/04)  
 Rep. Almy spoke against.  
 Rep. Robert Wheeler spoke in favor and yielded to questions.  
 On a division vote, 140 members having voted in the affirmative and 173 in the negative, the Committee of Conference Report was not adopted.

**HB 1428**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Report printed SJ 05/25/04)  
 Adopted.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. (Report printed SJ 05/25/04)  
 Rep. DiFruscia spoke against.  
 Reps. Rausch and Graham spoke in favor.  
 Reps. Leach, Cloutier and Burling spoke against and yielded to questions.  
 Reps. Haytayan spoke in favor and yielded to questions.  
 Rep. Rausch requested a roll call; sufficiently seconded.  
 The question being adoption of the Committee of Conference Report.

## YEAS 133 NAYS 171

### YEAS 133 BELKNAP

Allen, Janet	Bartlett, Gordon	Boyce, Laurie	Fitzgerald, James
Lawton, David	Nedeau, Stephen	Russell, David	Thomas, John
Wendelboe, Fran	Whalley, Michael		

### CARROLL

Babson, David Jr	McConkey, Mark	Morrow, Harry	Mock, Henry
Patten, Betsey			

### CHESHIRE

Dexter, Judson	Fish, Douglas	Hunt, John	Laurent, John
Liebl, George	Royce, H Charles		

### COOS

Brady, Mark	Guay, Lawrence	Pratt, Leighton	Richardson, Herbert
Stohl, Eric	Tholl, John Jr		

### GRAFTON

Alger, John	Dudley, Terri	Eaton, Stephanie	Gionet, Edmond
Naro, Debra	Williams, Burton		

### HILLSBOROUGH

Adams, Jarvis	Allan, Nelson	Artz, Lawrence	Balboni, Michael
Batula, Peter	Beaton, William	Brundige, Robert	Buhlman, David

Carter, Jeffrey  
Coughlin, Pamela  
Fields, Dennis  
Harrington, Paul  
Jasper, Shawn  
Luebker, Bernard  
O'Brien, Lori  
Scanlon, Michael  
Tahir, Saghir

Cernota, Albert  
Dionne, Kimberley  
Gargas, Carolyn  
Hawkins, Ken  
Kurk, Neal  
Mercer, Robert  
Price, Pamela  
Slocum, Lee  
Wheeler, Robert

Chabot, Robert  
Drisko, Richard  
Gonzalez, Carlos  
Haytayan, Harry Jr  
LaFlamme, Paul  
Moran, Edward  
Reeves, Sandra  
Stepanek, Stephen

Christensen, D L Chris  
Elliott, Larry  
Graham, John  
Infantine, William  
Lefebvre, Roland  
Mosher, William  
Rowe, Robert  
Sullivan, Jeffrey

### MERRIMACK

Anderson, Eric  
Jacobson, Alf  
Lockwood, Priscilla

Currier, David  
Kenison, Leon  
MacKay, James

Fraser, Leo Jr  
L'Heureux, Stephen  
McCormick, Tom

Hess, David  
Leber, William  
Oliver, James

### ROCKINGHAM

Belanger, Ronald  
Clark, Vivian  
Fesh, Bob  
Gillick, Thomas  
Holland, James Jr  
Johnson, Rogers  
Letourneau, Robert  
Morris, Richard  
Rausch, James  
Stone, Joseph  
Wiley, Robert

Bridle, Russell  
Cooney, Richard  
Flanders, John Sr  
Griffin, Mary  
Ingram, Russell  
Katsakiores, George  
Major, Norman  
O'Neil, Michael  
Roessner, Kurt  
Waterhouse, Kevin

Camm, Kevin  
Dodge, Robert  
Francoeur, Sheila  
Hamel, Albert  
Introne, Robert  
Katsakiores, Phyllis  
McCann, Richard  
Packard, Sherman  
Smith, Donald  
Welch, David

Carson, Sharon  
Dowd, John  
Gilbert, Karl  
Headd, James  
Johnson, Robert  
Kobel, Rudolph  
McKinney, Betsy  
Priestley, Anne  
Smith, Paul  
Weldy, Norman Jr

### STRAFFORD

Albert, Russell

Bickford, David

Easson, Timothy

Scott, David

### SULLIVAN

Rodeschin, Beverly

### NAYS 171

### BELKNAP

Ahern, Omer Jr

Clark, Charles

Pilliod, James

Rice, Thomas

### CARROLL

Derby, Mark

Dickinson, Howard

Kenney, Bettie

Olimpio, J Lisbeth

### CHESHIRE

Allen, Peter  
Manning, Joseph  
Pratt, Irene  
Webber, Amy

Dunn, James  
Meader, David  
Richardson, Barbara  
Weed, Charles

Eaton, Daniel  
Mitchell, McKim  
Robertson, Timothy

Espiefs, Peter  
Parkhurst, Henry  
Tilton, Anna

### COOS

Mears, Edgar

Poulin, Richard

Theberge, Robert

### GRAFTON

Akins, Ralph  
Densmore, Edward  
Ham, Bonnie  
Nordgren, Sharon

Almy, Susan  
Diamond, Estelle  
Hammond, Lee  
Scovner, Nancy

Benn, Bernard  
Dorsett, Andrew  
Ingbreton, Paul  
Sokol, Hilda

Cooney, Mary  
Giuda, Robert  
Maybeck, Margie  
Solomon, Peter

### HILLSBOROUGH

Allen, Timothy  
Bergin, Peter  
Carlson, Donald

Baroody, Benjamin  
Brassard, Paul  
Carter, Mark

Barry, J Gail  
Bruno, Pierre  
Christiansen, Lars

Bergeron, Jean-Guy  
Buckley, Raymond  
Clayton, William

Clemons, Jane	Cote, David	Cote, Peter	Craig, James
Crane, Elenore Casey	Desmarais, Vivian	Dokmo, Cynthia	Ford, Nancy
Gibson, John	Gorman, Mary	Goyette, Peter Jr	Haley, Robert
Hinkle, Peyton	Hopper, Gary	Irwin, Anne-Marie	Jean, Claudette
Johnson, Lionel	Kopka, Angeline	Lasky, Bette	Leach, Edward
Martin, Mary Ellen	McDonough-Wallace, Alice	McElroy, Henry Jr	McHugh, Claire
McRae, Karen	Michon, Stephen	Mooney, Maureen	Movsesian, Lori
Ober, Russell III	Palangas, Eric	Pappas, Christopher	Pappas, Marc
Pilotte, Maurice	Ross, Lawrence	Schulze, Joan	Shaw, Barbara
Souza, Kathleen	Sullivan, Francis	Sullivan, Peter	Sweeney, Cynthia
Vaillancourt, Steve	Wheeler, James		

**MERRIMACK**

Blanchard, Elizabeth	Bouchard, Candace	Brueggemann, Donald	Davis, Frank
DeJoie, John	DeStefano, Stephen	Field, William	Foley, Albert
French, Barbara	Gile, Mary	Hager, Elizabeth	Hamm, Christine
Kennedy, Richard	Langer, Ray	Marple, Richard	Nutter, Edward
Osborne, Jessie	Perkins, Randy	Potter, Frances	Rodd, Beth
Rush, Deanna	Seldin, Gloria	Soltani, Tony	Wallner, Mary Jane

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Blanchard, MaryAnn	Cady, Harriet
Casey, Kimberley	DiFruscia, Anthony	Dumaine, Dudley	Gleason, John
Gould, Kenneth	Hughes, Daniel	Langley, Jane	Langone, John
McEachern, Paul	McMahon, Charles	Norelli, Terie	Pantelakos, Laura
Putnam, Ed II	Quandt, Matthew	Robertson, Carl	Scamman, Stella
Shultis, Elizabeth	Splaine, James	Tufts, J Arthur	Zolla, William

**STRAFFORD**

Bemis, Alan	Berube, Roger	Brown, Julie	Cataldo, Sam
Creteau, Irene	Dunlap, Patricia	Harrington, Michael	Heon, Richard
Johnson, Nancy	Kaen, Naida	Keans, Sandra	Knowles, William
Miller, Joseph	Pelletier, Arthur	Rous, Emma	Schmidt, Peter
Smith, Marjorie	Snyder, Clair	Spang, Judith	Wall, Janet
Woods, Phyllis			

**SULLIVAN**

Burling, Peter	Cloutier, John	Ferland, Brenda	Franklin, Peter
Jones, Constance	Leone, Richard	Phinzy, James	

and the Committee of Conference Report was not adopted.

**SUSPENSION OF RULES**

Rep. Norelli moved that House Rules be so far suspended as to allow formation after the deadline of a new Committee of Conference on **HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds, and to allow signing of and action on the Committee of Conference report after the deadlines.

Adopted by the necessary two-thirds.

**NEW COMMITTEE OF CONFERENCE**

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

Adopted.

The Speaker appointed Reps. Leber, Rausch, Graham and Cloutier.

**INTRODUCTION OF RESOLUTION**

Reps. Hess and Burling offered the following: **RESOLVED**, that in accordance with the list in the possession of the Clerk, House Resolution numbered 27, affirming revenue estimates for fiscal years 2004 and 2005, shall be by this resolution read a first and second time by the therein listed title.

Adopted.

**INTRODUCTION OF HOUSE RESOLUTION****First, second reading**

**HR 27**, affirming revenue estimates for fiscal years 2004 and 2005. (Major, Rock 79)

**HOUSE RESOLUTION 27**

affirming revenue estimates for fiscal years 2004 and 2005.

WHEREAS, The House Ways and Means Committee has considered what the unrestricted revenue estimates should be for fiscal years 2004 and 2005 and has presented those estimates to the House of Representatives; now, therefore, be it

RESOLVED by the House of Representatives:

That the House wished to go on record as affirming the following revenue estimates for fiscal years 2004 and 2005.

Committee estimates are based on current rates.



STATE OF NEW HAMPSHIRE  
HOUSE RESOLUTION 27  
REVENUE ESTIMATES

GEN'L & ED TRUST FUNDS: (Dollars in Millions)	(A) FY 2003 Actual	(B)		(C) FY 2004		(D)		(E)		(F) FY 2005		(G)	
		Official		Committee		Official		Official		Committee		Official	
		Estimate	Variance	Estimate	Variance	Estimate	Variance	Estimate	Variance	Estimate	Variance	Estimate	Variance
(1) Business Profits Tax	\$174,857	\$228,600	\$228,600	\$0.000	\$0.000	\$234,900	\$234,900	\$0.000	\$0.000	\$234,900	\$234,900	\$0.000	\$0.000
(2) Business Enterprise Tax	217,974	175,200	175,200	0.000	0.000	180,100	180,100	0.000	0.000	180,100	180,100	0.000	0.000
(3) Subtotal	392,831	403,800	403,800	0.000	0.000	415,000	415,000	0.000	0.000	415,000	415,000	0.000	0.000
(4) Meals & Rooms Tax	175,423	183,500	183,500	0.000	0.000	191,200	191,200	0.000	0.000	191,200	191,200	0.000	0.000
(5) Liquor Sales	98,996	108,100	108,600	0.500	0.500	114,500	116,300	1,800	1,800	116,300	116,300	1,800	1,800
(6) Interest & Dividends Tax	55,129	61,000	55,500	(5,500)	(5,500)	64,000	60,000	(4,000)	(4,000)	60,000	60,000	(4,000)	(4,000)
(7) Insurance Tax	82,161	82,900	85,600	2,700	2,700	85,600	87,400	1,800	1,800	87,400	87,400	1,800	1,800
(8) Tobacco Tax	94,043	94,900	98,400	3,500	3,500	94,900	98,400	3,500	3,500	98,400	98,400	3,500	3,500
(9) Other	52,565	52,900	54,000	1,100	1,100	54,400	56,800	2,400	2,400	56,800	56,800	2,400	2,400
(10) Communications Tax	62,522	66,500	64,500	(2,000)	(2,000)	69,000	67,000	(2,000)	(2,000)	67,000	67,000	(2,000)	(2,000)
(11) Estate & Legacy Tax	59,074	19,400	29,400	10,000	10,000	11,400	11,400	0.000	0.000	11,400	11,400	0.000	0.000
(12) Real Estate Transfer Tax	118,285	120,500	134,500	14,000	14,000	123,500	131,300	7,800	7,800	131,300	131,300	7,800	7,800
(13) Court Fines & Fees	22,114	25,900	24,200	(1,700)	(1,700)	25,900	23,600	(2,300)	(2,300)	23,600	23,600	(2,300)	(2,300)
(14) Utility Tax	7,078	6,100	6,100	0.000	0.000	6,200	6,200	0.000	0.000	6,200	6,200	0.000	0.000
(15) Securities Revenue	25,778	26,700	26,700	0.000	0.000	28,000	28,000	0.000	0.000	28,000	28,000	0.000	0.000
(16) Board & Care Revenue	11,197	10,800	12,000	1,200	1,200	11,400	11,400	0.000	0.000	11,400	11,400	0.000	0.000
(17) Beer Tax	12,281	12,900	12,400	(500)	(500)	13,200	12,500	(700)	(700)	12,500	12,500	(700)	(700)
(18) Horse Racing	2,459	1,800	2,000	200	200	1,800	2,000	200	200	2,000	2,000	200	200
(19) Dog Racing	1,572	1,750	1,550	(200)	(200)	1,750	1,550	(200)	(200)	1,550	1,550	(200)	(200)
(20) Tobacco Settlement Funds	45,862	39,600	41,400	1,800	1,800	39,600	39,600	0.000	0.000	39,600	39,600	0.000	0.000
(21) SUBTOTAL	\$1,319,370	\$1,319,050	\$1,344,150	\$25,100	\$25,100	\$1,351,350	\$1,359,650	\$8,300	\$8,300	\$1,359,650	\$1,359,650	\$8,300	\$8,300

STATE OF NEW HAMPSHIRE  
HOUSE RESOLUTION 27  
REVENUE ESTIMATES

	(A)		(B)		(C)		(D)		(E)		(F)		(G)	
	FY 2003		FY 2004		FY 2004		FY 2004		FY 2005		FY 2005		FY 2005	
GEN'L & ED TRUST FUNDS: (cont.)	Actual		Official Estimate		Committee Estimate		Official Estimate		Official Estimate		Committee Estimate		Official Estimate	
(Dollars in Millions)														
(1) Other Medicaid Enhancement	16,594		29,300		35,300		6,000		22,800		29,400		6,600	
(2) Net Medicaid Enhancement Revenue	116,979		140,900		154,200		13,300		146,600		153,200		6,600	
(3) Utility Property Tax	18,834		19,000		19,000		0,000		20,500		20,500		0,000	
(4) Statewide Property Tax	485,663		473,300		473,300		0,000		363,400		363,400		0,000	
(5) Transfers from Sweepstakes	66,569		69,000		70,500		1,500		71,000		71,000		0,000	
(6) Federal Flexible Grant	25,000		50,000		25,000		(25,000)		0,000		0,000		0,000	
(7) Medicaid Recovery Regular Care	0,000		11,700		15,100		3,400		14,100		14,100		0,000	
(8) Medicaid Recovery Long Term Care	0,000		1,600		1,600		0,000		1,700		1,700		0,000	
(9) TOTAL	\$2,049,009		\$2,113,850		\$2,138,150		\$24,300		\$1,991,450		\$2,012,950		\$21,500	

	(A)		(B)		(C)		(D)		(E)		(F)		(G)	
	FY 2003		FY 2004		FY 2004		FY 2004		FY 2005		FY 2005		FY 2005	
HIGHWAY FUNDS:	Actual		Official Estimate		Committee Estimate		Official Estimate		Official Estimate		Committee Estimate		Official Estimate	
(Dollars in Millions)														
(10) Road Toll - Gross Total	\$145,721		\$146,600		\$148,200		\$1,600		\$148,850		\$149,350		\$0,500	
(11) Less Betterment	(21,500)		(21,500)		(21,500)		0,000		(21,850)		(21,850)		\$0,000	
(12) Road Toll - Net Total	124,221		125,100		126,700		1,600		127,000		127,500		\$0,500	
(13) Motor Vehicle Fees	87,725		91,300		92,600		1,300		93,700		94,400		0,700	
(14) Miscellaneous	4,737		5,500		5,700		0,200		6,100		6,100		0,000	
(15) TOTAL HIGHWAY FUNDS	\$216,683		\$221,900		\$225,000		\$3,100		\$226,800		\$228,000		\$1,200	

	(A)		(B)		(C)		(D)		(E)		(F)		(G)	
	FY 2003		FY 2004		FY 2004		FY 2004		FY 2005		FY 2005		FY 2005	
FISH & GAME FUNDS:	Actual		Official Estimate		Committee Estimate		Official Estimate		Official Estimate		Committee Estimate		Official Estimate	
(Dollars in Millions)														
(16) Fish & Game Licenses	\$7,924		\$8,300		\$8,300		\$0,000		\$8,300		\$8,300		\$0,000	
(17) Miscellaneous	1,000		1,300		0,900		(0,400)		1,300		0,900		(0,400)	
(18) TOTAL FISH & GAME FUNDS	\$8,924		\$9,600		\$9,200		(\$0,400)		\$9,600		\$9,200		(\$0,400)	

Rep. Major moved Ought to Pass and spoke in favor.

Adopted.

Ordered to third reading.

### RESOLUTION

Rep. Hess offered the following: **RESOLVED**, that the House now adjourn from the early session, that the business of the late session be in order at the present time, that the reading of bills be by title only and resolutions by caption only and that all bills ordered to third reading be read a third time by this resolution, and that all titles of bills be the same as adopted, and that they be passed at the present time, and when the House adjourns today it be to meet Thursday, June 17, 2004 at 10:00 a.m.

Adopted.

### LATE SESSION

#### Third reading and final passage

**HR 27**, affirming revenue estimates for fiscal years 2004 and 2005.

### UNANIMOUS CONSENT

Reps. Graham, Fields, Guay and Mock addressed the House.

Rep. Buckley moved that their remarks be printed in the Permanent Journal.

Adopted.

### REMARKS

Rep. Graham: Thank you, Mr. Speaker. Members of the House, it's been a long day but I think that it is entirely fitting that we take a few minutes to ponder the meaning of the weekend that is looming before us. I'm speaking about Memorial Day and its significance. But before I turn my attention fully to that topic, I would like to mention that this Saturday, May 29<sup>th</sup>, the World War II Memorial will be dedicated in our nation's capitol. It is appropriate that we recall the sacrifices of this greatest generation with a lasting monument to their courage and sacrifices, both on the battlefield and on the homefront. I would like to ask every member of this chamber who served either in uniform or on the homefront during the Second World War to please stand. I congratulate you and I'm sure my colleagues do, too. It is obvious that you have spent a lifetime in service to your community, state and nation. Again, thank you.

Memorial Day is not just another day off, nor the start of our summer tourist season, nor a day for car dealers to sell more cars. It is a day to reflect on the truism of the statement that freedom is not free. The first official recognition of Memorial Day as such was issued by General Logan, Commander of the Army of the Republic in General Order 11 establishing Decoration Day, as it was then known. It read in part, "The 30<sup>th</sup> day of May 1868 is designated for the purpose of strewing with flowers or otherwise decorating the graves of comrades who died in defense of their country." So for at least the last 137 years, our nation has set aside one day in May to pay tribute to all American service members who have paid that ultimate sacrifice to ensure that we can continue to meet in this chamber.

I would like each of you here in the Hall and those of you listening in the gallery or on the audio, to please take a moment over this weekend to attend a ceremony either in your local community or at our own Veterans Cemetery this Sunday at 11:00 a.m. to pay homage to those who have paid that sacrifice.

As General Logan wrote in that original proclamation, "Let us stand at the time appointed, gather around their sacred remains and garland the passionless mounds above them with choicest flowers of springtime. Let us raise above them the dear old flag they served. Let us in this solemn presence renew our pledges to aid and assist those who may have left among us as sacred charges upon the nation's gratitude, the soldiers and sailors, widows and orphans." We in this House have always striven to keep that pledge to those widows and orphans. This weekend let us take a moment to remember those who made that possible.

Finally, I was going to read a list of those New Hampshire men and women who have died in defense of our country over the past few months. But as I started to compile the list, I was afraid I would leave a name off. I also realized whether they grew up in Bedford, New Hampshire or Bedford, Alabama or Bedford, Washington, they are all our sons and daughters, so I would ask each of you join with me in a moment of silent reverence to those who have paid that sacrifice over the last few months. Thank you, Mr. Speaker, and my colleagues for this.

**REMARKS**

Rep. Fields: Thank you, Mr. Speaker, and honorable members of the House. Being this is the last session day, I feel that I have to speak and thank some people over the years that I have been here. Mary Gorman, I want to thank you for sometimes being a little help to me at different times over the time you've been here. I would also like to thank Rep. Jacobson, my friend, my seatmate for many times, I want to thank you for being a large mentor when I came in the House and all your expertise as a professor. I never had a college degree but I can tell you, I learned more with you over there sitting than I could in any college. I would like to thank Bob Laflam who we all know has some sickness and he's been a great friend to me over the years, too, and I had to thank those three people at least to start with.

Thank you, again. After 22 years this will be my last term in the House representing the town of Merrimack. It has been such a privilege to serve Merrimack all these years, and more recently the town of Litchfield. I want to express my sincere gratitude for their support and confidence in me. Working with the constituents of Merrimack has been the most rewarding experience of serving in the House. When I first became a legislator, I got a request to do something about banning guns in Merrimack and I went to Speaker Tucker, and I had no idea what to do as a freshman. As it turns out, I went to Henry Mock. Rep. Mock at the time was Major at the Fish and Game Department, and he checked out the current law for me. And we discovered that the matter could be handled by the town itself in a compact zone. So I want to thank you, Henry, for starting me out on the right track, otherwise I might have gone off the wrong track and proposed unnecessary legislation that I didn't need to do. Thank you.

Also I'm fortunate to have the opportunity to work with the following past and present committee chairmen, Joe Eaton was my Constitution chairman, Colonel Benton, a lot of you know, from Public Protection and Veterans' Affairs, Rep. Welch, who's here, thank you, and thanks very much for your help during the veterans' cemetery which we worked for 12 years on. If it wasn't for you as chairman, I don't think we would have got there, either. Thank you. Ed Smith was my other chairman, I think he left for the day but I've got to thank you, Ed. Rep. Tufts, ...I should say "Representatives," but sometime you get a little bit emotional and nervous up here. Rep. Tufts, thank you, you were great in committee. Steve Avery who passed away as we all know; Rep. Coughlin who's our chairman now, thank you, you've done a great job and I really appreciate all you've done on the committee. Rep. Patten on Administrative Rules. I tell you, if you want to learn something, get on Administrative Rules. I think you learn everything in the whole House and everything you need to know about the state, you may not know everything but you sure get an education there. Thank you. Rep. Charlie Royce, Recreation and Resources, I thank you. I've learned a lot about snowmobiles, skiing, ATVs, you name it, we've learned about it and I appreciate that. Another person who made a lasting impression on me was the late Donn Tibbetts from the Press Room. The first day I met him I said, "Hello, Mr. Tibbetts." He corrected me and said, "You mean The Honorable Mr. Tibbetts." From that day on, I've always said when coming in for the day, "Good morning, honorable press," and at night I say, "Good night, honorable press." Thank you, Donn.

It's been an honor to work with our past and present Speakers, including you, Mr. Speaker Chandler. Thank you for all your help in times when I needed to talk and when we need to get issues, and thanks for appointing me for speaking on my behalf as a clerk of my committee. Thank you. And I have to say, Rep. Peter Burling, even though you are on the other side, we've had some good times, and sometimes I've crossed the line and the Republicans have been a little angry with me, but that's OK. That's part of what we do here, sometimes we don't always agree with issues. I want to thank all the Senators and the Senate Presidents in the past as well as all the governors I've served since 1982. Also Councilor Wheeler, my councilor and the governor's council. I would like to acknowledge the Secretary of State, Bill Gardner, and his staff for their assistance and their neutral, being neutral for us. There's two lobbyists I would like to thank, George Roberts and Joan LaPlante, who over the years have always been fair, and up front and honest with me on any issue that's been in this House over the years. Those are two, there are several more, but I had to name those who mean a little bit more special than others, that's all.

There are certain pieces of legislation, and I'm not here to talk about me, that I was happy to be a part of starting with allowing students to participate on school boards. And veterans' issues have always especially been close to my heart and having the Veterans Cemetery become a reality, thank you, Dave, was probably one of the highlights and extremely significant to me and many New Hampshire veterans and their families. I want to applaud Governor Benson for his support of the veterans and our veterans' legislation.

Over the past 22 years there have been so many people who have worked with me and helped me in various ways, they include the staff of the House Clerk's Office, thank you. Thank you, Madam Clerk and your staff. The Sergeant-at-Arms Debbie, thank you. The Speaker's Office and his staff, thank you all. The researchers, the bill drafters, Legislative Services, the Visitors Center, the General Court Information Systems, Protective Services, the nurse, the nurse especially when I broke my ribs, they were there for me and helped me get in the House when I wasn't supposed to be here; but they came through. So there are a lot of good people here that we never thank and I could not leave this podium today and go home and ever have a void in my life that I didn't thank people if I didn't come back.

Most of all I want to thank the people of Merrimack. The Merrimack delegation, I want to thank you while you're here. The Merrimack Women's Republican Committee, the New Hampshire Republican Committee, the Hillsborough County delegation, I thank you for letting me be part of all the subcommittees. Bob Mercer, you were good with me on the subcommittees, thank you. I will be moving to another district with my friend, Gerry. Like to take this moment, it's her birthday today. I took her to dinner last night in case we got out late, so I can go to the Governor's cookout and she can go out with her girlfriends tonight. So Gerry, Happy Birthday, I won't say your age because I know that would be the wrong thing to do.

I would like to express my appreciation to the National Guard troops who are fighting for peace in Iraq and all our troops around the world. Thank you, General Blair, for your exemplary military leadership.

As to my friends and colleagues in the House, even though I am moving from Merrimack, who knows, I may be back in this Hall when I move to my other district. It might be a possibility, I don't know. But if I didn't get there and I tried to run and to get elected, I wanted to thank you all very much.

### REMARKS

Rep. Guay: Thank you, Mr. Speaker. Members of the House, I have served for 26 years in this House. I had written a book to talk to you about today but we're going to wait for that. I agree with everything Fields said, Rep. Fields, and I want to thank him for really taking part in that. I experienced working with five Speakers and I always enjoyed the session for all these sessions, from one to the next, to the next is always different. I really appreciate that. And I served on many committees. I didn't stick to one committee.

Mr. Speaker and members of the House, I will not seek re-election. I served my district very good and enjoyed meeting people and participate with many of them in my district, in the state, on the national basis and the international basis. I always voted with common sense, most of the time. Mr. Speaker, I can tell you very frankly, I was in the dog house with every Speaker that I served under. And I enjoyed every minute of it. For the Democrats, I was here for two terms and I was in the dog house there, too.

Points to remember that I would like to leave with you here:

Always remember it is not how many degrees that you have, college degrees or whatever you want to do, it is to be able as a legislator or anyone to be able to meet certain people and have them working for you. And I have mastered that. Of all these years, I learned that very quickly when I came into this House and it is true. It is true probably, as a Democrat, that I spent four hours in a private meeting with President Carter upstairs in his own living quarter. There ain't too many of us who can say that. And who do you get to meet? Remember that.. the Premier of Canada, governors all around the country, I have met them. I have met them in the auction business and I have met some of the others and I really appreciate the time that I spent.

I'm sure that I will have plenty to do after I get out of here, after I go back home. One of the things I'm still going to be working on, Mr. Speaker as you remember, 1900 and some odd, we had a meeting in Gorham, 20 people were there, for an east-west highway, and the Speaker was there. Well, I'd like to inform you that the 20 people is way over 300 now, from Halifax, Nova Scotia all the way to the Canadian border and Ontario. Maine, New Hampshire, Vermont, Quebec, they are all behind it. So we may see that yet. And how I get that is who you get to meet. Hutchinson out of Texas, Graham out of Texas, Bird and Jesse Helms fighting for what I wanted to do on the floor. You never seen that happen in Congress, they are wondering why. But actually, I never took credit for those things and I'm taking a little bit of credit now. Since you're not giving it to me, I'll take it myself.

I will work also with the good relations that I have established with Canada. They are our partners and hopefully I am able to continue a lot of these things I have started with Canada. I've got to tell

you a little secret that you never heard about, that Attorney Jeffrey Howard and Governor Merrill went up to Quebec City to meet with members of the Parliament and they came back to me and said, "We are mad at you." To me. And the reason they were mad was because 4 out of 5 members of the assembly of Quebec, after he introduced himself, they said, "You know Larry Guay up there?" The governor said at the end I was just saying, "Ya, I know Larry Guay, my name is Merrill." These are good things that happen you know.

I hope the military association that we formed in this House, we had a lot of people who were not on the list and we have a lot of people in this association that gets much more further than just being in the House. And I thank you, the people, the intelligence that you gather and actually being able in the time of war to be able to observe and do what your duties were trained which you were trained for that you've been doing. It's been a great benefit and actually I really appreciate that. And always remember that for the benefit of the veterans, there is no party. Democrats and Republicans alike for the benefit of the veterans. There is no party.

You may hear in the future, and I am not going to be involved with it right now or in the future, ten states have formed a Veterans Party, Republicans, Veterans and Democrats. State of Maine. Now they want to form one in the state of New Hampshire and I say all the time, "You don't have to, we have that under control at the present time with the members that we have in the military in the House." So you may hear about that.

Mr. Chairman, in conclusion I want to thank everybody that really helped me, including those who put me in the doghouse. I can tell you that this last time I was in the doghouse with the Speaker, actually he told me, "Larry, I'll give you anything you want." And he did. Everything I wanted I got from the Speaker. Actually it was a blessing for me to be in the dog house because I didn't agree sometimes on the Republican philosophy. That has to be changed somewhat. So I want to thank you for whatever you've done for me. So thank you very much and goodbye.

## REMARKS

Rep. Mock: Thank you, Mr. Speaker. Friends of the House. Twelve years ago, I arrived at this great institution, the General Court, the highest and most powerful of all the courts to say "hello." Today, I rise to say "good-bye." Throughout my lifetime I have carried with me the philosophy of leaving my careers at the pinnacle of productivity. I have reached that summit here and only I would know that, and only I am in the position to make that judgement.

It is always easier to fly off the top of a mountain than to take off from the valley below; therefore, I will not be running for re-election to the New Hampshire House this year. Oh, I will be running, for my life!! To stay too long is to become bitter and disgruntled and like a bird with a broken wing - one cannot fly. You have witnessed that around here yourselves. I will not allow that to happen to me.

I wish to leave while I'm still excited and interested in the process of legislating, while I'm still engaged, while I'm still active and productive. I want to leave while I'm still vital, not a vital statistic! One year ago next month I stood at this very podium to tell you that "when I walk through those double doors back there for the very last time, my principles will be absolutely intact and my conscience will be absolutely clear - They are and it is! Of course, they say that takes some courage. The courage to say NO when you must-and the courage to say YES when you should. The courage to step forward and the courage to take a step back.

A few times those principles and that courage have clashed, sending me to the woodshed for re-education. Under Speakers Burns and Sytek and the first term under Speaker Chandler, these sessions at the shed were not too bad. But when the Speaker put Representative Francoeur in charge of the shed, I figured that just might be a little "more than I was willing to bear." So lately, Mr. Speaker, I've tried my best to be good. Even though, Mr. Speaker, it still "AIN'T FAIR" to shoot a deer over bait!

My time here has been a trip, a journey that I never expected to take. When Speaker Sytek phoned me on a Sunday night in the fall of 1998 and asked me to serve as Chairman the of Judiciary Committee, I balked because I felt that pedestal was too high for me to sit on. She didn't need an immediate answer, she said, "but in the morning would be good." And that was the end of that night's sleep. And then it all began in 1999. The first Bill of Address since 1937 and then, in 2000, the first impeachment since 1793, and the pedestal grew higher.

Thanks to Speakers Burns, Sytek, and Chandler for placing in me the confidence and trust in shaping their leadership teams. Thanks to all of my committee members for their friendships and

their support that made things work for those members who gave our committee the reputation of the "tough committee to go before." Thanks to Minority Leaders Trombly and Burling for bringing forward to me my Democrats. A committee whose job is to legislate justice, when party lines should never be observed and they seldom are. This much I know, I leave behind in your hands a better Judiciary than the one I found.

Special thanks to House Counsel Betsy Miller for keeping this non-lawyer, sometimes strong headed, country boy out of legal trouble at least most of the time. You're the best, Betsy!!

Like our president once said, "Life takes its own turns, makes its own demands, writes its own story. Along the way, we start to realize we are not the author. We begin to understand that life is ours to live, but not to waste." I will not waste a minute in finding another mountain to climb.

For those who say, "Who will take your place?" I say this, Mr. Speaker. This House abounds with future leaders, for I can see them on both sides of the aisle in our freshman class and sophomore class. Someone once wrote a piece called *THE ESSENCE OF LEADERSHIP* and I have seen it here. It goes like this: *"A true leader has confidence to stand alone, the courage to make tough decisions, and the compassion to listen to the needs of others. He does not set out to be a leader, but becomes one by the quality of his actions and the integrity of his intent. In the end, leaders are much like eagles...they don't flock, you find them one at a time."*

Finally, Mr. Speaker, we should always remember that we are never known on this earth or remembered for the material things we have while we are here, but for what we leave behind. So today, I have two material things to leave behind, not much, but a little something.

And in this little bag that I brought to the podium, I have an item to give to the Clerk of the House. My first NCSL meeting was in Chicago in the year 2000, right after impeachment. We had a reception at the Chicago Zoo and the Clerk did not take a warm jacket. She borrowed my sweatshirt and she didn't give it back for several weeks or months. And every time I tried to wear it, I thought I had to have two martinis like we did that night. So, Madame Clerk, for you, I leave this ratty t-shirt.

And one other thing, it's a little different. In Carroll County we have had for decades I guess this little thing about when you drive to Concord and another member rides with you, he or she pays you \$5.00. The Speaker and I have been riding together for all these years, occasionally, but I always drove. Sometimes he gave me ones and sometimes he gave me fives, but he always gave. So, Mr. Speaker, I have here in this wad of bills the very identical bills that you gave me. I borrowed \$2.00 one time, but I think I paid it back. If it doesn't come out in the fives when you count it (and I have no idea what's here), then I didn't pay it back.

Mr. Speaker, I am giving this to you today in memory of the Nancy Chandler-Brett Beyerle Memorial Fund.

My friends, I leave you with this very final thought. It is always nice to have your presence recognized, but it is ever so much better to have your absence noticed. In my world, it will be your absence that will be noticed. Thank you.

## UNANIMOUS CONSENT

Reps. Mosher and Paul Smith addressed the House.

## SENATE MESSAGE

### ACCEDE TO REQUEST FOR NEW COMMITTEE OF CONFERENCE

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

The President appointed Sens. Clegg, Morse, and D'Allesandro.

## CLERK'S NOTE

The Speaker indicated that a discrepancy had been found between the spreadsheet used by the Committee of Conference on SB 302 and the actual language of the report. It was the intent of the Committee of Conference that the language include utility property in order to convey the results enumerated on the spreadsheet.

The Clerk was instructed to note this for the record, and was given a copy of the spreadsheet to keep on file.

## ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bill numbered 697 and Senate Bills numbered 366, 367, 375, and 414.

Rep. Currier, Sen. D'Allesandro for the Committee

**SENATE MESSAGE****ADOPTION OF COMMITTEE OF CONFERENCE REPORTS**

**SB 109**, adopting the model Drug Dealer Liability Act.

**SB 153**, adopting the nurse licensure compact.

**SB 302-FN-L**, making technical corrections to the education funding formula.

**SB 312-FN**, establishing a state code of ethics.

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board.

**SB 338-FN**, relative to the purchase of prior service credit in the retirement system and repealing certain provisions permitting additional conditions.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.

**SB 381**, relative to the authorization for and transfer of certain capital appropriations within the department of safety.

**SB 382-FN-L**, relative to medical service rates for state prisoners.

**SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.

**SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting.

**SB 413-FN**, establishing a commission to study the construction time frame and financing for the expansion of Interstate Route 93.

**SB 415-FN**, relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.

**SB 421**, relative to charter schools.

**SB 423**, relative to confidentiality and workers' compensation.

**SB 449**, relative to fluoridation of municipally-owned public water systems.

**SB 453**, establishing a committee to study the tobacco master settlement agreement revenue stream to the state, and changing requirements for tobacco manufacturers not participating in the Master Settlement Agreement.

**SB 459**, making certain changes to the real estate practice act.

**SB 461**, relative to the regulation of gift certificates under the consumer protection act.

**SB 478 -FN**, relative to penalties for DWI offenses.

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay.

**SB 490-FN**, relative to voting procedures and relative to ward boundaries in Manchester.

**SB 500-FN**, relative to certain procedures of financial institutions.

**SB 508-FN**, relative to grant-funded programs.

**SB 521-FN**, increasing the penalty for identity fraud.

**SB 526**, relative to sexual harassment complaint procedures.

**SB 533**, relative to licensing requirements for certain recreation and child care programs.

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies.

**SENATE MESSAGE****ADOPTION OF NEW COMMITTEE OF CONFERENCE REPORT ON HB 2004**

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

**CONSIDERATION OF COMMITTEE OF CONFERENCE REPORT****NEW COMMITTEE OF CONFERENCE REPORT ON HOUSE BILL 2004**

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. (Report printed SJ 05/25/04)

Rep. Cloutier spoke in favor.

Adopted.

**RECESS MOTION**

Rep. Hess moved that the House stand in recess for the purposes of receiving enrolled bill amendments, enrolled bill reports, Senate messages and veto messages from the Governor.



Adopted.

The House recessed at 6:30 p.m.

# RECESS

(Rep. Whalley in the Chair)

## ENROLLED BILL AMENDMENT

**HB 1207-FN-A**, relative to a Global War on Terrorism operations service bonus payment.

### Amendment (1618-EBA)

Amend RSA 115-A:19 as inserted by section 1 of the bill by replacing line 7 with the following:  
exercised parental control at the time of or most nearly prior to the date of the qualified person's entry

Adopted.

# RECESS

(Rep. Batula in the Chair)

## ENROLLED BILL AMENDMENT

**SB 302-FN-L**, making technical corrections to the education funding formula. (Amendment printed SJ 05/25/04)

Adopted.

# RECESS

(Rep. Gibson in the Chair)

## ENROLLED BILL REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled Senate Bill numbered 302.

Rep. Letourneau, Sen. Clegg for the Committee

# RECESS

(Rep. D. L. Chris Christensen in the Chair)

## ENROLLED BILL AMENDMENT

**HB 1262**, establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.

### Amendment (1681-EBA)

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.

Amend the bill by inserting after section 5 the following new section:

6 Effective Date. This act shall take effect upon its passage.  
Adopted.

# RECESS

(Rep. Craig in the Chair)

## ENROLLED BILL AMENDMENT

**HB 1378-FN-A**, relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.

### Amendment (1674-EBA)

Amend the bill by replacing all after section 5 with the following:

6 New Subdivision; Service Awards for Veterans of World War II, the Korean War, and the Vietnam War. Amend RSA 115-A by inserting after section 22 the following new subdivision:

## New Hampshire Service Awards

## 115-A:23 New Hampshire Service Awards.

I. The adjutant general shall, with the cooperation and advice of the director of the state veteran's council and the state veterans advisory committee, design and cause to be manufactured or produced service awards for service in World War II, the Korean War, and the Vietnam War. Service awards may be in the form of medals, medallions, or certificates.

II. The awards shall be designed in a manner which:

(a) Indicates the major branches of the armed forces, which are the army, navy, air force, marine corps, and coast guard.

(b) Displays the seal of the state of New Hampshire and a likeness of the "Old Man of the Mountain."

(c) Displays an inscription stating that the award is a "New Hampshire Award for Service," the name of the war in which the recipient served and the beginning and ending dates of the war.

115-A:24 Eligibility for Award. Any person who served in any of the following wars; who, if deemed necessary by the adjutant general, earned the appropriate service medal; and who was honorably discharged, or who is missing in action, or who was killed in action; and who, at the time of entry on such active service, and at the time of such service was a bona fide resident of this state shall be eligible for the award provided under this subdivision. Eligible service is service in:

I. "World War II" between December 7, 1941 and December 31, 1946.

II. The "Korean War" between June 27, 1950 and January 31, 1955.

III. The "Vietnam War" between August 5, 1964 and May 7, 1975 or between February 28, 1961 and May 7, 1975 for persons who served in Vietnam prior to August 5, 1964.

115-A:25 Application for Service Award. Any person eligible for a service award under this subdivision, or if such person is incapacitated or deceased, the surviving spouse or child of such eligible person, may apply to the adjutant general for such service award during 2-year application time periods established by the adjutant general for each war. The adjutant general shall establish application forms and procedures.

115-A:26 Rulemaking. The adjutant general shall adopt rules, pursuant to RSA 541-A, relative to:

I. The dates for the 2-year application time period for each war for which a service award may be awarded under this subdivision.

II. Application forms and procedures under RSA 115-A:25.

III. Any other matter deemed necessary by the adjutant general relative to the design, manufacture, production, or distribution of service awards under this subdivision.

115-A:27 Gifts, Grants, and Donations. Notwithstanding any other provision of law, the adjutant general may solicit and receive monetary gifts, grants, or donations for the purpose of paying costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision.

115-A:28 New Hampshire Service Award Fund. There is established in the office of the state treasurer a fund to be known as the New Hampshire service award fund. All monetary gifts, grants, and donations received by the adjutant general pursuant to RSA 115-A:27 shall be deposited in such fund. The fund is established to pay the costs of the design, manufacture or production, and distribution of New Hampshire service awards under this subdivision. The money in this fund shall be nonlapsing and shall be continually appropriated to the department of the adjutant general.

7 Appropriation; Adjutant General. The sum of \$10,000 is hereby appropriated to the New Hampshire service award fund for the fiscal year ending June 30, 2005, for the purposes of start-up costs for the design, manufacture or production, and distribution of New Hampshire service awards under RSA 115-A:23-28, as inserted by section 7 of this act. This appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

8 Contingency. If HB 1207-FN-A of the 2004 legislative session becomes law then sections 1 and 2 of this act shall not take effect and sections 6 and 7 of this act shall take effect July 1, 2004. If HB 1207-FN-A of the 2004 legislative session does not become law then sections 6 and 7 of this act shall not take effect and sections 1 and 2 of this act shall take effect July 1, 2004.

9 Effective Date.

I. Sections 1, 2, 6, and 7 of this act shall take effect as provided in section 8 of this act.

II. The remainder of this act shall take effect July 1, 2004.

Adopted.

## RECESS

(Rep. Paul Smith in the Chair)

## ENROLLED BILL AMENDMENTS

**HB 243**, relative to motor vehicle exhaust noise standards.**Amendment (1684-EBA)**

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect upon its passage.

Adopted.

**HB 369**, relative to the Henniker and Hillsborough district courts.**Amendment (1696-EBA)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts.

Adopted.

**HB 551**, establishing a committee to study the use of prescription psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.**Amendment (1689-EBA)**

Amend the bill by replacing the title with the following:

AN ACT relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.

Adopted.

**HB 640-FN**, relative to post-conviction DNA testing.**Amendment (1685-EBA)**

Amend RSA 651-D:2, I as inserted by section 1 of the bill by replacing line 1 with the following:

I. A person in custody pursuant to the judgment of the court may, at any time after conviction or Amend RSA 651-D:2, IV as inserted by section 1 of the bill by replacing lines 5-7 with the following:

(c) Designate the New Hampshire state police forensic laboratory to conduct the test.

(d) Designate a laboratory accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), unless the petitioner and the attorney

Amend RSA 651-D:3, II as inserted by section 1 of the bill by replacing line 6 with the following: investigating agency may destroy biological material 90 days after filing a petition, unless the Adopted.

(Rep. Thomas in the Chair)

## ENROLLED BILL AMENDMENTS

**SB 109**, adopting the model Drug Dealer Liability Act and permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (Amendment printed SJ 05/25/04)

Adopted.

**SB 153**, adopting the nurse licensure compact. (Amendment printed SJ 05/25/04)

Adopted.

**SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals. (Amendment printed SJ 05/25/04)

Adopted.

**SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene. (Amendment printed SJ 05/25/04)  
Adopted.

**SB 478-FN**, relative to penalties for DWI offenses. (Amendment printed SJ 05/25/04)  
Adopted.

**SB 481-FN-L**, establishing a sewer and other water-related purposes district for Great Bay. (Amendment printed SJ 05/25/04)  
Adopted.

**SB 534-FN-A**, relative to the reorganization of certain functions and duties of state agencies. (Amendment printed SJ 05/25/04)  
Adopted.

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 727 and 1207 and Senate Bills numbered 413, 448, and 498.

Rep. Letourneau, Sen. D'Allesandro for the Committee

### RECESS

(Rep. O'Neil in the Chair)

### ENROLLED BILLS REPORT

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 176, 384, 426, 1162, 1165, 1262, 1276, 1282, 1296, 1380, 1408 and Senate Bills numbered 312, 317, 338, 381, 382, 407, 415, 421, 423, 449, 453, 459, 461, 490, 500, 508, 521, 526 and 533.

Rep. Letourneau, Sen. D'allesandro for the Committee

### RECESS

(Rep. Price in the Chair)

### ENROLLED BILL AMENDMENTS

**HB 618-FN-A**, making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.

### Amendment (1690-EBA)

Amend the bill by replacing all after section 11 with the following:

12 Municipal Budget Law; Posting of Budget; Contingent Version. RSA 32:5, VII is repealed and reenacted to read as follows:

VII.(a) The governing body shall post certified copies of the budget with the warrant for the meeting. The operating budget warrant article shall contain the amount as recommended by the budget committee if there is one. In the case of towns, the budget shall also be printed in the town report made available to the legislative body at least one week before the date of the annual meeting. A school district or village district may vote, under an article inserted in the warrant, to require the district to print its budget in an annual report made available to the district's voters at least one week before the date of the annual meeting. Such district report may be separate or may be combined with the annual report of the town or towns within which the district is located.

(b) The governing body in official ballot referenda jurisdictions operating under RSA 40:13 shall post certified copies of the default budget form or any amended default budget form with the proposed operating budget and the warrant.

13 Contingency. If SB 407 of the 2004 legislative session becomes law, then section 12 of this act shall take effect at 12:01 a.m. on the effective date of SB 407. If SB 407 does not become law, then section 12 of this act shall not take effect.

14 Effective Date.

I. Section 12 of this act shall take effect as provided in section 13 of this act.

II. The remainder of this act shall take effect upon its passage.

Adopted.

**HB 643-FN**, relative to the family division of the courts and reducing the number of superior court justices.

**Amendment (1692-EBA)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the family division of the courts, reducing the number of superior court justices, and relative to marital masters.

Amend the bill by replacing section 4 with the following:

4 Superior Court Justices. Amend RSA 491:1 to read as follows:

491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and council to a 5-year term, and [28] **21** associate justices. Said justices shall be appointed and commissioned as prescribed by the constitution and shall exercise the powers of the court unless otherwise provided.

Adopted.

**HB 698-FN**, relative to electronic toll collection.

**Amendment (1698-EBA)**

Amend section 4 of the bill by replacing lines 2-5 with the following:

RSA 260:14 by inserting after paragraph III the following new paragraph:

III-a. Except for a person's photograph, computerized image, and social security number, motor vehicle records may be made available to the department of transportation for the enforcement of the electronic toll collection, pursuant to RSA 236:31. Any records received under

Adopted.

**HB 713-FN**, relative to the penalty for violating a zoning ordinance.

**Amendment (1686-EBA)**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the penalty for violating a zoning ordinance and relative to residences in industrial or commercial zones.

Adopted.

**HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.

**Amendment (1695-EBA)**

Amend section 4 of the bill by replacing line 8 with the following:

environmental services shall obtain the advice and consent of the legislative dam management review

Adopted.

**HB 1281**, permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.

**Amendment (1699-EBA)**

Amend the bill by replacing all after section 3 with the following:

4 New Paragraph; Determination of Education Grants; Notification. Amend RSA 198:41 by inserting after paragraph IV the following new paragraph:

V. The department of education shall notify municipalities of the estimated amount of aid to which they are entitled for the following school year on November 15.

5 Contingency. If section 8 of SB 302-FN-LOCAL of the 2004 legislative session becomes law, section 4 of this act shall take effect July 1, 2005 and section 3 of this act shall not take effect. If section 8 of SB 302-FN-LOCAL of the 2004 legislative session does not become law, section 3 of this act shall take effect July 1, 2005 and section 4 of this act shall not take effect.

6 Effective Date.

I. Sections 3 and 4 of this act shall take effect as provided in section 5 of this act.

II. The remainder of this act shall take effect upon its passage

Adopted.

**HB 1293**, relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.

**Amendment (1691-EBA)**

Amend RSA 417:4, XXII(a) as inserted by section 5 of the bill by replacing line 2 with the following:

intimidation, coercion, or threat, for or against any insured person or entity, to use a particular

Adopted.

**HB 1295**, relative to certain court records and exempting certain documents from the right-to-know law.

**Amendment (1687-EBA)**

Amend section 4 of the bill by replacing lines 2-5 with the following:  
paragraph VII the following new paragraphs:

VIII. Any notes or other materials made for personal use that do not have an official purpose, including notes and materials made prior to, during, or after a public proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form

Adopted.

**HB 1326**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.

**Amendment (1688-EBA)**

Amend the bill by replacing the title with the following:

AN ACT relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks and establishing a study committee to examine the classification of consumer and display fireworks.

Amend RSA 160-C:3, II-f (f) as inserted by section 1 of the bill by replacing line 2 with the following:

*and its principal owners pursuant to this chapter during the previous 5 years.*

Amend RSA 160-C:3, II-f (g) as inserted by section 1 of the bill by replacing line 2 with the following:

*his or her qualifications to perform such work.*

Amend RSA 160-C:3, II-h(b) as inserted by section 1 of the bill by replacing line 1 with the following:

*(b) The applicant, and any principal controlling owners, directors, or natural*

Amend section 3 of the bill by replacing lines 3-4 with the following:

VIII the following new paragraph:

IX. The commissioner of safety shall adopt rules, under RSA 541-A, for the licensing of  
Amend RSA 160-C:13, II as inserted by section 4 of the bill by replacing line 2 with the following:  
*days prior to any testing and approval conducted pursuant to RSA 160-C:13, III, or earlier*

Adopted.

**HB 1348-FN**, relative to registration of business organizations.

**Amendment (1701-EBA)**

Amend RSA 292:3, III(b) as inserted by section 1 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form

Amend RSA 293-B:14, IV as inserted by section 16 of the bill by replacing line 1 with the following:

IV. The certificate of trust of a New Hampshire investment trust may be revoked pursuant to Amend RSA 293-B:16, I(c)(2) as inserted by section 17 of the bill by replacing line 1 with the following:

(2) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 294-A:7, III(b)(2)(B) as inserted by section 18 of the bill by replacing line 2 with the following:

*in a form satisfactory to the secretary of state to change its name to a name that is distinguishable*  
Amend RSA 301:43-a, III(b) as inserted by section 23 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 304-A:45, III(b) as inserted by section 30 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 304-B:2, IV(b) as inserted by section 36 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 304-C:3, IV(b) as inserted by section 46 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 304-C:66, I(d) as inserted by section 50 of the bill by replacing line 3 with the following:

and its certificate of formation;

Amend RSA 305:2-e, II(b) as inserted by section 57 of the bill by replacing line 1 with the following:

(b) The other entity consents to the use in writing and submits an undertaking in a form Amend RSA 349:1, IV(b)(2) as inserted by section 60 of the bill by replacing line 2 with the following:

*undertaking in a form satisfactory to the secretary of state to change its name to a name that*  
Amend RSA 349:1, IV(g) as inserted by section 60 of the bill by replacing line 1 with the following:

*(c) An applicant may use the name, including the fictitious name, of another*

Adopted.

**HB 1401-FN**, limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.

#### **Amendment (1694-EBA)**

Amend section 5 of the bill by replacing line 2 with the following:

of the commission shall be called by the senate member. The first meeting of the  
Adopted.

**HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.

#### **Amendment (1700-EBA)**

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 Duplicate Amendment. Sections 12 and 13 of SB 371 from the 2004 legislative session shall not take effect.

Adopted.

**HB 2004-FN-L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

#### **Amendment (1704-EBA)**

Amend section 3 of the bill by replacing subparagraph II(a)(1)(A) with the following:

(A) Three members of the public works and highways committee.

Adopted.

RECESS

**(Rep. Francoeur in the Chair)**

**ENROLLED BILLS REPORT**

The Committee on Enrolled Bills has examined and found correctly enrolled House Bills numbered 243, 369, 551, 618, 640, 643, 698, 713, 1148, 1281, 1293, 1295, 1326, 1348, 1378, 1401, 1428, 2004, and Senate Bills numbered 109, 153, 376, 391, 406, 478, 481 and 534.

Rep. Letourneau, Sen. D'Allesandro for the Committee

RECESS

**(Speaker Chandler in the Chair)**

Rep. Hess moved that the House adjourn.

Adopted.



## HOUSE JOURNAL No. 18

Thursday, June 17, 2004

The House assembled at 10:00 a.m., the hour to which it stood adjourned, and was called to order by the Speaker.

Prayer was offered by House Chaplain, The Reverend Hays M. Junkin, Rector of Saint Andrew's Episcopal Church in Hopkinton.

Divine Creator, maker of all things seen and unseen, we have heard that politics is like making sausage, and if that is so, we pray today for the following political recipe:

Grant each member of this honorable House an open heart to hear the concerns of those they serve.

Grant each a listening ear, an open mind and a healthy measure of compassion.

Grant each a spirit of discernment with the wisdom and the will to act courageously.

Remove the fat and gristle that stall progress and erode trust.

Add the proper seasonings of dedication, sacrifice and thanksgiving.

So that, when our political sausage is placed in the frying pan of public opinion, all the citizens of our beloved New Hampshire may smell the sweet aroma of work well done with Your blessing and grace.

As always, we ask for Your protection to be with those who serve this country at home and in far away places to protect our lives, our communities and our precious freedom. Amen.

Rep. Alf E. Jacobson led the Pledge of Allegiance.

The National Anthem was sung by The Reverend Robert H. Thompson, Phelps Minister for Phillips Church, Phillips Exeter Academy.

Rep. Robert G. Holbrook accompanied and led the House in the singing "God Bless America."

### LEAVES OF ABSENCE

Reps. Julie Brown, Brundige, Flanagan, Karl Gilbert, Joseph Harris, Sandra Harris, Heon, Hinkle and King, the day, illness.

Reps. Barker, Barry, Chabot, Chris Christensen, Duffy, Christopher Dunne, Gilman, Guay, Hager, Bonnie Ham, Hollinger, Hopper, Rous, Royce, Ruffner, Rush, Scott, Slack, Snyder, Souza, Robert Wheeler and Winchell, the day, important business.

Rep. Ford, the day, illness in the family.

### INTRODUCTION OF GUESTS

Jonathan Whiteman, guest of Rep. Parkhurst. Betty Miller, wife of Rep. Miller. Rick Richardson, guest of Rep. Letourneau. J. David Knox and Chris Ahlgren, guests of Rep. Derby. Adrienne Sorg, daughter of Rep. Sorg. Barbara Browne, guest of Rep. Carolyn Brown. Helen Holbrook, Elaine Morrison and Janet Storey Clark, wife, daughter and guest of Rep. Holbrook. Paul Deschenes and Ellen Brutsch, guests of Rep. Timothy Richardson. Ted Bevan, grandson of Rep. Robert Laflam. Katharina Khorrami, guest of Rep. Gile.

### COMMUNICATIONS

May 26, 2004

Gene G. Chandler

Speaker of the House

Dear Mr. Speaker:

It is with mixed emotions that I herewith submit for your acceptance, my resignation as a member of the New Hampshire House of Representatives. I am moving out of District 37 and I am therefore no longer eligible to serve as their Representative.

I hasten to add, that everyday for the past 20 years that I have had the honor to serve the citizens of New Hampshire, has been a labor of love and certainly an experience I will never forget.

Rep. Leo W. Fraser, Jr.,

Merrimack County, District 37

May 26, 2004

Gene G. Chandler  
Speaker of the House

Dear Mr. Speaker,

I hereby submit my resignation as a member of the New Hampshire House of Representatives. I am moving out of District 58 and am therefore no longer eligible to serve as their Representative. For the past 22 years, I have had the honor to serve the citizens of New Hampshire and my district. This has been a fulfilling experience that I will never forget. I value the respect and trust that my constituents bestowed in me year after year.

Rep. Dennis H. Fields,  
Hillsborough County, District 58

The Speaker accepted the resignations with regret.

The House of Representatives offered the following:

### HOUSE RESOLUTION 28

Memorializing State Representative Lionel W. Johnson of Manchester

WHEREAS, we have learned with great sorrow of the death of our friend and colleague Lionel W. Johnson, who was in his eighth term of dedicated service in the House of Representatives; and WHEREAS, while the name of his committee changed over the years, the focus of his interest did not, and Lionel Johnson served three terms as a member of the Committee on Children Youth and Juvenile Justice, two terms on Judiciary and Family Law, and three terms on children and Family Law; and

WHEREAS, Lionel Johnson was a gentleman and a gentle man, a warm and caring friend to all known for his engaging smile and infectious laughter; and

WHEREAS, Lionel Johnson, a World War II veteran born in Louisiana, came to Manchester's Grenier Field with the United States Army Air Corps and made Manchester his home – the city where he worked, lived and raised his family; and

WHEREAS, Lionel Johnson, who recently received a lifetime achievement award from the Manchester Pastoral Council, served his community in many ways – as a business owner, a founder of the Manchester chapter of the NAACP, as a Ward official, and as President of the Greater Manchester Black Scholarship Foundation; now, therefore, be it

RESOLVED, by the House of Representatives in Regular Session convened, that Lionel W. Johnson be granted the highest praise and accolades for his dedicated service to his community and his state; and be it further

RESOLVED, that expressions of heartfelt sympathy be extended to his family and that a suitable copy of this Resolution be prepared for presentation to them.

Unanimously adopted by a rising vote.

### GOVERNOR'S VETO MESSAGE ON HB 503

April 26, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 503, an Act relative to septic system construction permits.

HB 503 requires municipalities to provide, or assure access to, Department of Environmental Services approved septage storage facilities for residents. While I agree providing for the proper disposal of domestic septage at New Hampshire facilities is becoming increasingly difficult for septage haulers serving residents who continue to rely on septic systems, I do not believe HB 503 is the proper solution.

HB 503 can have unintended consequences which must be considered. The bill prohibits the NH Department of Environmental Services from issuing any new septic system construction permit until a municipality is in compliance with the law. The legislative purpose outlined in the bill states "The act is intended to...further restrict development that generates additional sewage". Almost all development generates additional sewage, therefore a municipality could use HB 503 as a tool to limit growth and encourage "snob" zoning. Simply by not complying with the provisions of HB 503 a municipality could prevent any new construction, and place the blame on the State.

In addition, the reference to "a department approved alternative option for its residents" will lead to uncertainty and may provide a loophole for municipalities to circumvent the legislature's intent. The State should be looking at financial incentives and disincentives to encourage municipalities and property owners to address the growing concerns of septage storage. Prohibiting new construction will not only limit the State's economic potential, but could limit individual's property rights. For these reasons I have vetoed HB 503.

Respectfully submitted,  
Craig R. Benson, Governor

The question being, notwithstanding the Governor's veto, shall **HB 503**, relative to septic system construction permits, become law?

Rep. Camm spoke against.

Reps. Philbrick, McEachern and Patten spoke in favor.

Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

## YEAS 247 NAYS 88

### YEAS 247

#### BELKNAP

Ahern, Omer Jr  
Flanders, Donald  
Pilliod, James

Allen, Janet  
Holbrook, Robert  
Rice, Thomas

Bartlett, Gordon  
Laflam, Robert  
Russell, David

Clark, Charles  
Nedeau, Stephen  
Thomas, John

#### CARROLL

Babson, David Jr  
Olimpio, J Lisbeth

Brown, Carolyn  
Patten, Betsey

McConkey, Mark  
Philbrick, Donald

Morrow, Harry  
Stevens, Stanley

#### CHESHIRE

Allen, Peter  
Hunt, John  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Eaton, Daniel  
Manning, Joseph  
Pratt, Irene  
Smith, Edwin

Espieffs, Peter  
Meader, David  
Pratt, John  
Tilton, Anna

#### COOS

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

Richardson, Herbert

#### GRAFTON

Akins, Ralph  
Cooney, Mary  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Nordgren, Sharon  
Sorg, Gregory

Benn, Bernard  
Dudley, Terri  
Scovner, Nancy  
Williams, Burton

Bleyler, Ruth  
Hammond, Lee  
Sokol, Hilda

#### HILLSBOROUGH

Allan, Nelson  
Batula, Peter  
Carter, Jeffrey  
Cote, David  
Dionne, Kimberley  
Gargas, Carolyn  
Haley, Robert  
Hunter, Bruce  
Jean, Claudette  
Kurk, Neal  
Leach, Edward

Arnold, Thomas Jr  
Bergin, Peter  
Carter, Mark  
Cote, Peter  
Dokmo, Cynthia  
Gorman, Mary  
Hall, Charles  
Infantine, William  
Katsiantonis, Thomas  
L'Heureux, Robert  
Lefebvre, Roland

Balcom, John  
Brassard, Paul  
Clayton, William  
Coughlin, Pamela  
Drisko, Richard  
Graham, John  
Harrington, Paul  
Irwin, Anne-Marie  
Kopka, Angeline  
LaFlamme, Paul  
Martin, Mary Ellen

Baroody, Benjamin  
Buckley, Raymond  
Clemons, Jane  
Craig, James  
Emerton, Larry  
Hagan, Barbara  
Haytayan, Harry Jr  
Jasper, Shawn  
Kudalis, Debra  
Lasky, Bette  
McRae, Karen

Mercer, Robert  
O'Brien, Lori  
Price, Pamela  
Schulze, Joan  
Sullivan, Jeffrey

Messier, Irene  
Palangas, Eric  
Reeves, Sandra  
Shaw, Barbara  
Sullivan, Peter

Michon, Stephen  
Pappas, Christopher  
Rowe, Robert  
Spiess, Paul  
Sweeney, Cynthia

Movsesian, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Sullivan, Francis

### MERRIMACK

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
Hamm, Christine  
Langer, Ray  
Maxfield, Roy  
Potter, Frances  
Wallner, Mary Jane

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Hess, David  
Leber, William  
Osborne, Jessie  
Reardon, Tara

Bouchard, Candace  
Daniels, Eric  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla  
Owen, Derek  
Rodd, Beth

Brueggemann, Donald  
Davis, Frank  
Gile, Mary  
Kenison, Leon  
MacKay, James  
Perkins, Randy  
Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
Carson, Sharon  
Dalrymple, Janeen  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Katsakiores, George  
Langone, John  
McKinney, Betsy  
Packard, Sherman  
Putnam, Ed II  
Scamman, Stella  
Stone, Joseph  
Weare, E Albert  
Wiley, Robert

Belanger, Ronald  
Casey, Kimberley  
DiFruscia, Anthony  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Ingram, Russell  
Katsakiores, Phyllis  
Major, Norman  
Norelli, Terie  
Pantelakos, Laura  
Rausch, James  
Shultis, Elizabeth  
Tufts, J Arthur  
Welch, David

Blanchard, MaryAnn  
Coes, Betsy  
Dowd, John  
Flanders, John Sr  
Gleason, John  
Headd, James  
Johnson, Robert  
Kelley, Jane  
Manning, John  
Noyes, Richard  
Pitts, Jacqueline  
Robertson, Carl  
Smith, Paul  
Vallone, Matthew  
Weldy, Norman Jr

Bridle, Russell  
Cooney, Richard  
Doyle, Christopher  
Francoeur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Johnson, Rogers  
Langley, Jane  
McEachern, Paul  
O'Neil, Michael  
Priestley, Anne  
Roessner, Kurt  
Splaine, James  
Waterhouse, Kevin  
Weyler, Kenneth

### STRAFFORD

Albert, Russell  
Creteau, Irene  
Kaen, Naida  
Musler, George  
Smith, Marjorie  
Twombly, James

Bemis, Alan  
Dunlap, Patricia  
Keans, Sandra  
Pelletier, Arthur  
Spang, Judith  
Vachon, Dennis

Berube, Roger  
Hofemann, Roland  
Knowles, William  
Rollo, Deanna  
Taylor, Katherine  
Wall, Janet

Callaghan, Frank  
Johnson, Nancy  
Miller, Joseph  
Schmidt, Peter  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizz, James

Cloutier, John  
Franklin, Peter  
Rodeschin, Beverly

Donovan, Thomas  
Jones, Constance

### NAYS 88

### BELKNAP

Boyce, Laurie

Fitzgerald, James

Wendelboe, Fran

Whalley, Michael

### CARROLL

Derby, Mark

Dickinson, Howard

Mock, Henry

### CHESHIRE

Dexter, Judson

Fish, Douglas

Laurent, John

**COOS**

Brady, Mark

Woodward, David

**GRAFTON**Alger, John  
Giuda, RobertDorsett, Andrew  
Ingretson, PaulEaton, Stephanie  
Maybeck, Margie

Gionet, Edmond

**HILLSBOROUGH**Adams, Jarvis  
Beaton, William  
Cernota, Albert  
Elliott, Larry  
Goyette, Peter Jr  
Hawkins, Ken  
McElroy, Henry Jr  
Ober, Russell III  
Stepanek, Stephen  
Wheeler, JamesAllen, Timothy  
Bergeron, Jean-Guy  
Christiansen, Lars  
Fletcher, Richard  
Greenberg, Gary  
Lawrence, James  
McHugh, Claire  
Pappas, Marc  
Tahir, SaghirArtz, Lawrence  
Bruno, Pierre  
Crane, Elenore Casey  
Gibson, John  
Hallyburton, Margaret  
Lessard, Rudy  
Mooney, Maureen  
Ross, Lawrence  
Tate, JoanBalboni, Michael  
Buhlman, David  
Desmarais, Vivian  
Gonzalez, Carlos  
Hansen, Ryan  
Luebker, Bernard  
Mosher, William  
Slocum, Lee  
Vaillancourt, Steve**MERRIMACK**Field, William  
McCormick, Tom  
Soltani, TonyFoley, Albert  
Nutter, EdwardKennedy, Richard  
Oliver, JamesMarple, Richard  
Reed, Dennis**ROCKINGHAM**Allen, Mary  
Camm, Kevin  
Introne, Robert  
McCann, Richard  
Varrell, ThomasBicknell, Elbert  
Clark, Vivian  
Itse, Daniel  
McMahon, Charles  
Zolla, WilliamBishop, Franklin  
Dodge, Robert  
Kobel, Rudolph  
Quandt, MatthewCady, Harriet  
Hutchinson, Karen  
Letourneau, Robert  
Smith, Donald**STRAFFORD**Cataldo, Sam  
Woods, Phyllis

Easson, Timothy

Harrington, Michael

Newton, Clifford

**SULLIVAN**

None

and the veto was overridden by the necessary two-thirds.

Rep. Pepino did not vote and notified the Clerk he wished to be recorded against.

**GOVERNOR'S VETO MESSAGE ON HB 520**

May 17, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 520, an Act relative to maintaining records of greyhounds used in pari-mutuel racing.

HB 520 requires the pari-mutuel commission to maintain statistics and records regarding the disposition of all racing greyhounds and health records of greyhounds.

The pari-mutuel commission has stated this bill will increase state expenditures. We simply cannot afford new spending at this time. In addition, many supporters of the bill seek to put an end to greyhound racing in New Hampshire. We should be concerned about the potential loss of jobs associated with the closing down of the state's greyhound industry.

The bill creates a penalty of a Class A misdemeanor, punishable with up to a year in prison, for falsifying a disposition form or failing to record an injury more than once. This penalty applies to the smallest of injuries that may not even be related to racing activities. The penalty provisions in this bill are simply unfair.

The racing industry is subject to enough regulation as it is. Each greyhound track in NH is currently required to have a licensed state veterinarian on duty, and the New Hampshire Dept. of Agriculture inspects facilities. The commission recently adopted new racing rules and regulations that will help ensure the safety of animals.

Finally, I recently created, by executive order, the Humane Treatment of Animals task force to examine issues related to animal abuse, including greyhounds, in New Hampshire.

For these reasons I have vetoed HB 520.

Respectfully submitted,

Craig R. Benson, Governor

The question being, notwithstanding the Governor's veto, shall **HB 520**, relative to maintaining records of greyhounds used in pari-mutuel racing, become law?

Rep. Michael Harrington spoke against.

Rep. Hughes spoke in favor.

Rep. Timothy Allen spoke in favor and yielded to questions.

Rep. Paul LaFlamme spoke in favor.

Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

## YEAS 290 NAYS 52

### YEAS 290

#### BELKNAP

Ahern, Omer Jr  
Flanders, Donald  
Russell, David

Bartlett, Gordon  
Nedeau, Stephen  
Wendelboe, Fran

Clark, Charles  
Pilliod, James

Fitzgerald, James  
Rice, Thomas

#### CARROLL

Babson, David Jr  
Olimpio, J Lisbeth

Brown, Carolyn  
Patten, Betsey

Kenney, Bettie  
Philbrick, Donald

Merrow, Harry

#### CHESHIRE

Allen, Peter  
Fish, Douglas  
Mitchell, McKim  
Richardson, Barbara  
Weed, Charles

Dunn, James  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy

Eaton, Daniel  
Manning, Joseph  
Pratt, Irene  
Tilton, Anna

Espiefs, Peter  
Meador, David  
Pratt, John  
Webber, Amy

#### COOS

Brady, Mark  
Richardson, Herbert

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

#### GRAFTON

Akins, Ralph  
Cooney, Mary  
Gionet, Edmond  
Scovner, Nancy  
Williams, Burton

Almy, Susan  
Densmore, Edward  
Hammond, Lee  
Sokol, Hilda

Benn, Bernard  
Dorsett, Andrew  
Naro, Debra  
Solomon, Peter

Bleyler, Ruth  
Dudley, Terri  
Nordgren, Sharon  
Sorg, Gregory

#### HILLSBOROUGH

Adams, Jarvis  
Artz, Lawrence  
Beaton, William  
Bruno, Pierre  
Carter, Mark  
Cote, David  
Crane, Elenore Casey

Allan, Nelson  
Balcom, John  
Bergeron, Jean-Guy  
Buckley, Raymond  
Cernota, Albert  
Cote, Peter  
Desmarais, Vivian

Allen, Timothy  
Baroody, Benjamin  
Bergin, Peter  
Carlson, Donald  
Clayton, William  
Coughlin, Pamela  
Dionne, Kimberley

Arnold, Thomas Jr  
Batula, Peter  
Brassard, Paul  
Carter, Jeffrey  
Clemons, Jane  
Craig, James  
Dokmo, Cynthia

Drisko, Richard  
 Gargas, Carolyn  
 Goyette, Peter Jr  
 Haley, Robert  
 Haytayan, Harry Jr  
 Jasper, Shawn  
 Kudalis, Debra  
 Leach, Edward  
 Martin, Mary Ellen  
 Messier, Irene  
 Mosher, William  
 Palangas, Eric  
 Pilotte, Maurice  
 Rowe, Robert  
 Spiess, Paul  
 Sullivan, Peter  
 Vaillancourt, Steve

Elliott, Larry  
 Gibson, John  
 Graham, John  
 Hall, Charles  
 Holden, Randolph  
 Jean, Claudette  
 L'Heureux, Robert  
 Lefebvre, Roland  
 McElroy, Henry Jr  
 Michon, Stephen  
 Movsesian, Lori  
 Pappas, Christopher  
 Price, Pamela  
 Scanlon, Michael  
 Stepanek, Stephen  
 Sweeney, Cynthia

Emerton, Larry  
 Gonzalez, Carlos  
 Greenberg, Gary  
 Hallyburton, Margaret  
 Infantine, William  
 Katsiantonis, Thomas  
 LaFlamme, Paul  
 Lessard, Rudy  
 McHugh, Claire  
 Mooney, Maureen  
 O'Brien, Lori  
 Pappas, Marc  
 Reeves, Sandra  
 Schulze, Joan  
 Sullivan, Francis  
 Tahir, Saghir

Fletcher, Richard  
 Gorman, Mary  
 Hagan, Barbara  
 Harrington, Paul  
 Irwin, Anne-Marie  
 Kopka, Angeline  
 Lasky, Bette  
 Luebker, Bernard  
 Mercer, Robert  
 Moran, Edward  
 Ober, Russell III  
 Pepino, Leo  
 Ross, Lawrence  
 Shaw, Barbara  
 Sullivan, Jeffrey  
 Tate, Joan

### MERRIMACK

Anderson, Eric  
 Clarke, Claire  
 DeStefano, Stephen  
 Hess, David  
 Lockwood, Priscilla  
 Nutter, Edward  
 Potter, Frances  
 Soltani, Tony

Blanchard, Elizabeth  
 Daniels, Eric  
 French, Barbara  
 Jacobson, Alf  
 MacKay, James  
 Osborne, Jessie  
 Reardon, Tara  
 Wallner, Mary Jane

Bouchard, Candace  
 Davis, Frank  
 Gile, Mary  
 Kenison, Leon  
 Maxfield, Roy  
 Owen, Derek  
 Rodd, Beth

Brueggemann, Donald  
 DeJoie, John  
 Hamm, Christine  
 Langer, Ray  
 McCormick, Tom  
 Perkins, Randy  
 Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
 Bridle, Russell  
 Casey, Kimberley  
 DiFruscia, Anthony  
 Dumaine, Dudley  
 Gilbert, Jeffrey  
 Griffin, Mary  
 Hughes, Daniel  
 Johnson, Rogers  
 Kobel, Rudolph  
 Major, Norman  
 McKinney, Betsy  
 O'Neil, Michael  
 Priestley, Anne  
 Robertson, Carl  
 Smith, Paul  
 Vallone, Matthew  
 Weyler, Kenneth

Allen, Mary  
 Cady, Harriet  
 Coes, Betsy  
 Dodge, Robert  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Hutchinson, Karen  
 Katsakiores, George  
 Langley, Jane  
 Manning, John  
 McMahon, Charles  
 Packard, Sherman  
 Putnam, Ed II  
 Roessner, Kurt  
 Splaine, James  
 Waterhouse, Kevin  
 Wiley, Robert

Belanger, Ronald  
 Camm, Kevin  
 Cooney, Richard  
 Dowd, John  
 Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Ingram, Russell  
 Katsakiores, Phyllis  
 Langone, John  
 McCann, Richard  
 Norelli, Terie  
 Pantelakos, Laura  
 Quandt, Matthew  
 Scamman, Stella  
 Stone, Joseph  
 Welch, David  
 Zolla, William

Blanchard, MaryAnn  
 Carson, Sharon  
 Dalrymple, Janeen  
 Doyle, Christopher  
 Francoeur, Sheila  
 Gould, Kenneth  
 Holland, James Jr  
 Introne, Robert  
 Kelley, Jane  
 Letourneau, Robert  
 McEachern, Paul  
 Noyes, Richard  
 Pitts, Jacqueline  
 Rausch, James  
 Shultis, Elizabeth  
 Tufts, J Arthur  
 Weldy, Norman Jr

### STRAFFORD

Albert, Russell  
 Callaghan, Frank  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Taylor, Katherine  
 Wall, Janet

Bemis, Alan  
 Creteau, Irene  
 Johnson, Nancy  
 Miller, Joseph  
 Schmidt, Peter  
 Taylor, Kathleen  
 Woods, Phyllis

Berube, Roger  
 Dunlap, Patricia  
 Kaen, Naida  
 Musler, George  
 Smith, Marjorie  
 Twombly, James

Bickford, David  
 Easson, Timothy  
 Keans, Sandra  
 Pelletier, Arthur  
 Spang, Judith  
 Vachon, Dennis

**SULLIVAN**

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter  
Rodeschin, Beverly

Donovan, Thomas  
Jones, Constance

**NAYS 52****BELKNAP**

Allen, Janet  
Thomas, John

Boyce, Laurie  
Whalley, Michael

Holbrook, Robert

Laflam, Robert

**CARROLL**

Derby, Mark  
Stevens, Stanley

Dickinson, Howard

McConkey, Mark

Mock, Henry

**CHESHIRE**

Dexter, Judson

Hunt, John

Laurent, John

Smith, Edwin

**COOS**

Woodward, David

**GRAFTON**

Alger, John  
Maybeck, Margie

Eaton, Stephanie

Giuda, Robert

Ingbertson, Paul

**HILLSBOROUGH**

Balboni, Michael  
Hawkins, Ken  
McRae, Karen

Buhlman, David  
Hunter, Bruce  
Slocum, Lee

Christiansen, Lars  
Kurk, Neal  
Wheeler, James

Hansen, Ryan  
Lawrence, James

**MERRIMACK**

Currier, David  
Marple, Richard

Field, William  
Oliver, James

Foley, Albert  
Reed, Dennis

Leber, William

**ROCKINGHAM**

Bicknell, Elbert  
Johnson, Robert  
Weare, E Albert

Bishop, Franklin  
Morris, Richard

Clark, Vivian  
Smith, Donald

Itse, Daniel  
Varrell, Thomas

**STRAFFORD**

Campbell, W Packy

Cataldo, Sam

Harrington, Michael

Newton, Clifford

**SULLIVAN**

None

and the veto was overridden by the necessary two-thirds.

**GOVERNOR'S VETO MESSAGE ON HB 1134**

May 10, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed House Bill 1134, an Act relative to the appointment of the Chief Justice of the Supreme Court.

HB 1134 limits the term of the chief justice to 5 years. It also returns the nomination and appointment of the chief justice to the governor and council.

On April 28<sup>th</sup>, 2004 the New Hampshire Supreme Court found that RSA 490:1 violates the New Hampshire Constitution. The court noted that the statute violated the separation of powers doctrine. They ruled the chief justice position is a discrete judicial office and as such is subject to the constitutional provisions for executive nomination and appointment. In addition, the court ruled



that to limit the term of a chief justice divests the chief justice of the constitutional right to life-time tenure (subject to the age limitations set forth in Part II, Article 78). The legislature may not, by statute, alter the tenure or appointment of the chief justice. The court decision renders HB 1134 moot. The only available action to the legislature is a constitutional amendment.

For these reasons I have vetoed HB 1134.

Respectfully submitted,  
Craig R. Benson, Governor

The question being, notwithstanding the Governor's veto, shall **HB 1134**, relative to the appointment of the Chief Justice of the Supreme Court, become law?

Rep. Rowe spoke against.

Rep. Sorg spoke in favor.

Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

## YEAS 153 NAYS 190

### YEAS 153

#### BELKNAP

Ahern, Omer Jr  
Flanders, Donald

Bartlett, Gordon  
Holbrook, Robert

Boyce, Laurie  
Pilliod, James

Clark, Charles  
Rice, Thomas

#### CARROLL

Kenney, Bettie

McConkey, Mark

Olimpio, J Lisbeth

Philbrick, Donald

#### CHESHIRE

Allen, Peter  
Laurent, John  
Tilton, Anna

Dunn, James  
Mitchell, McKim  
Webber, Amy

Fish, Douglas  
Pratt, Irene

Hunt, John  
Richardson, Barbara

#### COOS

Brady, Mark

Mears, Edgar

Pratt, Leighton

Richardson, Herbert

#### GRAFTON

Alger, John  
Giuda, Robert  
Scovner, Nancy

Dorsett, Andrew  
Ingbreton, Paul  
Solomon, Peter

Dudley, Terri  
Naro, Debra  
Sorg, Gregory

Gionet, Edmond  
Nordgren, Sharon

#### HILLSBOROUGH

Adams, Jarvis  
Balboni, Michael  
Carlson, Donald  
Desmarais, Vivian  
Hagan, Barbara  
Holden, Randolph  
Kurk, Neal  
Lefebvre, Roland  
McElroy, Henry Jr  
Mooney, Maureen  
Shaw, Barbara  
Sullivan, Jeffrey

Allan, Nelson  
Bergeron, Jean-Guy  
Carter, Jeffrey  
Dionne, Kimberley  
Haley, Robert  
Infantine, William  
LaFlamme, Paul  
Lessard, Rudy  
McHugh, Claire  
Moran, Edward  
Slocum, Lee  
Sweeney, Cynthia

Allen, Timothy  
Buckley, Raymond  
Christiansen, Lars  
Drisko, Richard  
Hansen, Ryan  
Jean, Claudette  
Lawrence, James  
Luebker, Bernard  
McRae, Karen  
O'Brien, Lori  
Spiess, Paul  
Tate, Joan

Artz, Lawrence  
Cail, Kenneth  
Coughlin, Pamela  
Gibson, John  
Harrington, Paul  
Katsiantonis, Thomas  
Leach, Edward  
Martin, Mary Ellen  
Messier, Irene  
Rowe, Robert  
Sullivan, Francis  
Vaillancourt, Steve

#### MERRIMACK

Blanchard, Elizabeth  
Gile, Mary  
McCormick, Tom  
Perkins, Randy

Bouchard, Candace  
Jacobson, Alf  
Nutter, Edward  
Seldin, Gloria

Clarke, Claire  
Kennedy, Richard  
Osborne, Jessie  
Soltani, Tony

French, Barbara  
Marple, Richard  
Owen, Derek  
Wallner, Mary Jane

**ROCKINGHAM**

Allen, Mary	Bicknell, Elbert	Bridle, Russell	Cady, Harriet
Casey, Kimberley	DiFruscia, Anthony	Dowd, John	Doyle, Christopher
Dumaine, Dudley	Flanders, John Sr	Gleason, John	Gould, Kenneth
Hamel, Albert	Holland, James Jr	Hutchinson, Karen	Introne, Robert
Itse, Daniel	Katsakiores, George	Katsakiores, Phyllis	Kelley, Jane
Kobel, Rudolph	Langone, John	Letourneau, Robert	McCann, Richard
McKinney, Betsy	McMahon, Charles	Noyes, Richard	Pitts, Jacqueline
Quandt, Matthew	Robertson, Carl	Smith, Donald	Stone, Joseph
Waterhouse, Kevin	Weldy, Norman Jr	Weyler, Kenneth	Wiley, Robert

**STRAFFORD**

Albert, Russell	Bemis, Alan	Cataldo, Sam	Creteau, Irene
Harrington, Michael	Knowles, William	Miller, Joseph	Woods, Phyllis

**SULLIVAN**

Allison, David	Burling, Peter	Donovan, Thomas	Ferland, Brenda
Flint, Gordon Sr	Jones, Constance	Leone, Richard	Phinizy, James

**NAYS 190****BELKNAP**

Allen, Janet	Fitzgerald, James	Laflam, Robert	Neddeau, Stephen
Russell, David	Thomas, John	Wendelboe, Fran	Whalley, Michael

**CARROLL**

Babson, David Jr	Brown, Carolyn	Derby, Mark	Dickinson, Howard
Merrow, Harry	Mock, Henry	Patten, Betsey	Stevens, Stanley

**CHESHIRE**

Dexter, Judson	Eaton, Daniel	Espiefs, Peter	Liebl, George
Manning, Joseph	Meader, David	Parkhurst, Henry	Pratt, John
Robertson, Timothy	Smith, Edwin	Weed, Charles	

**COOS**

Poulin, Richard	Stohl, Eric	Theberge, Robert	Tholl, John Jr
Woodward, David			

**GRAFTON**

Akins, Ralph	Almy, Susan	Benn, Bernard	Bleyler, Ruth
Cooney, Mary	Densmore, Edward	Eaton, Stephanie	Hammond, Lee
Maybeck, Margie	Sokol, Hilda	Williams, Burton	

**HILLSBOROUGH**

Arnold, Thomas Jr	Balcom, John	Baroody, Benjamin	Batula, Peter
Beaton, William	Bergin, Peter	Brassard, Paul	Bruno, Pierre
Buhlman, David	Carter, Mark	Cernota, Albert	Clayton, William
Clemons, Jane	Cote, David	Cote, Peter	Craig, James
Crane, Elenore Casey	Dokmo, Cynthia	Elliott, Larry	Emerton, Larry
Fletcher, Richard	Gargas, Carolyn	Gonzalez, Carlos	Gorman, Mary
Goyette, Peter Jr	Graham, John	Greenberg, Gary	Hall, Charles
Hallyburton, Margaret	Haytayan, Harry Jr	Hunter, Bruce	Irwin, Anne-Marie
Jasper, Shawn	Kopka, Angeline	Kudalis, Debra	L'Heureux, Robert
Lasky, Bette	Mercer, Robert	Michon, Stephen	Mosher, William
Movsesian, Lori	Ober, Russell III	Palangas, Eric	Pappas, Christopher
Pappas, Marc	Pepino, Leo	Pilote, Maurice	Price, Pamela
Reeves, Sandra	Ross, Lawrence	Scanlon, Michael	Schulze, Joan
Stepanek, Stephen	Sullivan, Peter	Tahir, Saghir	Wheeler, James

**MERRIMACK**

Anderson, Eric  
Davis, Frank  
Foley, Albert  
Langer, Ray  
Maxfield, Roy  
Reed, Dennis

Brueggemann, Donald  
DeJoie, John  
Hamm, Christine  
Leber, William  
Oliver, James  
Rodd, Beth

Currier, David  
DeStefano, Stephen  
Hess, David  
Lockwood, Priscilla  
Potter, Frances

Daniels, Eric  
Field, William  
Kenison, Leon  
MacKay, James  
Reardon, Tara

**ROCKINGHAM**

Abbott, Dennis  
Camm, Kevin  
Cooney, Richard  
Francoeur, Sheila  
Headd, James  
Johnson, Rogers  
McEachern, Paul  
Packard, Sherman  
Rausch, James  
Smith, Paul  
Varrell, Thomas

Belanger, Ronald  
Carson, Sharon  
Dalrymple, Janeen  
Gilbert, Jeffrey  
Hughes, Daniel  
Langley, Jane  
Morris, Richard  
Pantelakos, Laura  
Roessner, Kurt  
Splaine, James  
Weare, E Albert

Bishop, Franklin  
Clark, Vivian  
Dodge, Robert  
Gillick, Thomas  
Ingram, Russell  
Major, Norman  
Norelli, Terie  
Priestley, Anne  
Scamman, Stella  
Tufts, J Arthur  
Welch, David

Blanchard, MaryAnn  
Coes, Betsy  
Fesh, Bob  
Griffin, Mary  
Johnson, Robert  
Manning, John  
O'Neil, Michael  
Putnam, Ed II  
Shultis, Elizabeth  
Vallone, Matthew  
Zolla, William

**STRAFFORD**

Berube, Roger  
Dunlap, Patricia  
Kaen, Naida  
Pelletier, Arthur  
Spang, Judith  
Vachon, Dennis

Bickford, David  
Easson, Timothy  
Keans, Sandra  
Rollo, Deanna  
Taylor, Katherine  
Wall, Janet

Callaghan, Frank  
Hofemann, Roland  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

Campbell, W Packy  
Johnson, Nancy  
Newton, Clifford  
Smith, Marjorie  
Twombly, James

**SULLIVAN**

Cloutier, John  
and the veto was sustained, lacking the necessary two-thirds.

Franklin, Peter

Rodeschin, Beverly

**GOVERNOR'S VETO MESSAGE ON HOUSE BILL 2004**

June 15, 2004

To the Honorable Members of the General Court:

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed HB 2004, an Act relative to the 10-year transportation improvement plan and making certain adjustments to turnpike funds.

HB 2004 is the 10-year plan. The legislature has failed to produce a plan that is fully funded. In section 1 of the bill the legislature acknowledges the revenue projected for the plan is inadequate to fund all the projects in the plan. The legislature failed to make the tough decisions to produce a balanced plan. It is irresponsible to the citizens and taxpayers of the state to promise a project knowing it may never be completed due to lack of funding.

I proposed the use of GARVEE bonds to help reduce the construction time for the I93 widening project. The use of GARVEE's would have allowed the project to be completed as much as 4 years earlier than planned, thereby reducing the overall cost of the project.

Finally, there remains great uncertainty regarding the State's allocation of Federal Highway funds. It is possible NH's share of federal funds is diminished. HB 2004 fails to account for this possibility. For these reasons I have vetoed HB 2004.

Respectfully submitted,  
Craig R. Benson, Governor

The question being, notwithstanding the Governor's veto, shall **HB 2004-FN-L**, relative to the 10-year transportation improvement plan and making certain adjustments to turnpike funds, become law? Rep. Graham spoke in favor.

Rep. Edwin Smith spoke in favor and yielded to questions.

Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

**YEAS 312 NAYS 31****YEAS 312****BELKNAP**

Ahern, Omer Jr  
Clark, Charles  
Lafam, Robert  
Russell, David

Allen, Janet  
Fitzgerald, James  
Nedeau, Stephen  
Thomas, John

Bartlett, Gordon  
Flanders, Donald  
Pilliod, James  
Wendelboe, Fran

Boyce, Laurie  
Holbrook, Robert  
Rice, Thomas  
Whalley, Michael

**CARROLL**

Babson, David Jr  
Kenney, Bettie  
Olimpio, J Lisbeth

Brown, Carolyn  
McConkey, Mark  
Patten, Betsey

Derby, Mark  
Morrow, Harry  
Philbrick, Donald

Dickinson, Howard  
Mock, Henry  
Stevens, Stanley

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, Irene  
Smith, Edwin

Dunn, James  
Hunt, John  
Meader, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Laurent, John  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

**COOS**

Brady, Mark  
Richardson, Herbert  
Woodward, David

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

**GRAFTON**

Akins, Ralph  
Bleyler, Ruth  
Eaton, Stephanie  
Ingbertson, Paul  
Sokol, Hilda

Alger, John  
Cooney, Mary  
Gionet, Edmond  
Naro, Debra  
Solomon, Peter

Almy, Susan  
Densmore, Edward  
Giuda, Robert  
Nordgren, Sharon  
Sorg, Gregory

Benn, Bernard  
Dudley, Terri  
Hammond, Lee  
Scovner, Nancy  
Williams, Burton

**HILLSBOROUGH**

Allan, Nelson  
Balboni, Michael  
Bergeron, Jean-Guy  
Cail, Kenneth  
Clayton, William  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Goyette, Peter Jr  
Hall, Charles  
Haytayan, Harry Jr  
Irwin, Anne-Marie  
Kopka, Angeline  
Lasky, Bette  
Lessard, Rudy  
McRae, Karen  
Moran, Edward  
Ober, Russell III  
Pilotte, Maurice  
Rowe, Robert  
Spiess, Paul  
Sullivan, Peter  
Vaillancourt, Steve

Allen, Timothy  
Baroody, Benjamin  
Bergin, Peter  
Carlson, Donald  
Clemons, Jane  
Craig, James  
Drisko, Richard  
Gibson, John  
Graham, John  
Hallyburton, Margaret  
Holden, Randolph  
Jasper, Shawn  
Kudalis, Debra  
Lawrence, James  
Luebker, Bernard  
Mercer, Robert  
Mosher, William  
Palangas, Eric  
Price, Pamela  
Scanlon, Michael  
Stepanek, Stephen  
Sweeney, Cynthia

Arnold, Thomas Jr  
Batula, Peter  
Brassard, Paul  
Carter, Jeffrey  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Gonzalez, Carlos  
Greenberg, Gary  
Hansen, Ryan  
Hunter, Bruce  
Jean, Claudette  
Kurk, Neal  
Leach, Edward  
Martin, Mary Ellen  
Messier, Irene  
Movsesian, Lori  
Pappas, Christopher  
Reeves, Sandra  
Schulze, Joan  
Sullivan, Francis  
Tahir, Saghir

Artz, Lawrence  
Beaton, William  
Buckley, Raymond  
Carter, Mark  
Cote, Peter  
Dionne, Kimberley  
Fletcher, Richard  
Gorman, Mary  
Haley, Robert  
Harrington, Paul  
Infantine, William  
Katsiantonis, Thomas  
LaFlamme, Paul  
Lefebvre, Roland  
McHugh, Claire  
Michon, Stephen  
O'Brien, Lori  
Pepino, Leo  
Ross, Lawrence  
Shaw, Barbara  
Sullivan, Jeffrey  
Tate, Joan

**MERRIMACK**

Anderson, Eric  
 Clarke, Claire  
 DeJoie, John  
 Hamm, Christine  
 Lockwood, Priscilla  
 Osborne, Jessie  
 Reardon, Tara  
 Wallner, Mary Jane

Blanchard, Elizabeth  
 Currier, David  
 DeStefano, Stephen  
 Hess, David  
 MacKay, James  
 Owen, Derek  
 Reed, Dennis

Bouchard, Candace  
 Daniels, Eric  
 French, Barbara  
 Jacobson, Alf  
 Maxfield, Roy  
 Perkins, Randy  
 Rodd, Beth

Brueggemann, Donald  
 Davis, Frank  
 Gile, Mary  
 Kenison, Leon  
 McCormick, Tom  
 Potter, Frances  
 Seldin, Gloria

**ROCKINGHAM**

Abbott, Dennis  
 Blanchard, MaryAnn  
 Carson, Sharon  
 Cooney, Richard  
 Dowd, John  
 Flanders, John Sr  
 Gleason, John  
 Headd, James  
 Ingram, Russell  
 Johnson, Rogers  
 Kobel, Rudolph  
 Major, Norman  
 McKinney, Betsy  
 Packard, Sherman  
 Putnam, Ed II  
 Roessner, Kurt  
 Smith, Paul  
 Vallone, Matthew  
 Welch, David  
 Zolla, William

Allen, Mary  
 Bridle, Russell  
 Casey, Kimberley  
 Dalrymple, Janeen  
 Doyle, Christopher  
 Francoeur, Sheila  
 Gould, Kenneth  
 Holland, James Jr  
 Introne, Robert  
 Katsakiores, George  
 Langley, Jane  
 Manning, John  
 Norelli, Terie  
 Pantelakos, Laura  
 Quandt, Matthew  
 Scamman, Stella  
 Splaine, James  
 Varrell, Thomas  
 Weldy, Norman Jr

Belanger, Ronald  
 Cady, Harriet  
 Clark, Vivian  
 DiFruscia, Anthony  
 Dumaine, Dudley  
 Gilbert, Jeffrey  
 Griffin, Mary  
 Hughes, Daniel  
 Itse, Daniel  
 Katsakiores, Phyllis  
 Langone, John  
 McCann, Richard  
 Noyes, Richard  
 Pitts, Jacqueline  
 Rausch, James  
 Shultis, Elizabeth  
 Stone, Joseph  
 Waterhouse, Kevin  
 Weyler, Kenneth

Bishop, Franklin  
 Camm, Kevin  
 Coes, Betsy  
 Dodge, Robert  
 Fesh, Bob  
 Gillick, Thomas  
 Hamel, Albert  
 Hutchinson, Karen  
 Johnson, Robert  
 Kelley, Jane  
 Letourneau, Robert  
 McEachern, Paul  
 O'Neil, Michael  
 Priestley, Anne  
 Robertson, Carl  
 Smith, Donald  
 Tufts, J Arthur  
 Weare, E Albert  
 Wiley, Robert

**STRAFFORD**

Albert, Russell  
 Callaghan, Frank  
 Easson, Timothy  
 Kaen, Naida  
 Musler, George  
 Smith, Marjorie  
 Twombly, James

Bemis, Alan  
 Campbell, W Packy  
 Harrington, Michael  
 Keans, Sandra  
 Pelletier, Arthur  
 Spang, Judith  
 Vachon, Dennis

Berube, Roger  
 Creteau, Irene  
 Hofemann, Roland  
 Knowles, William  
 Rollo, Deanna  
 Taylor, Katherine  
 Wall, Janet

Bickford, David  
 Dunlap, Patricia  
 Johnson, Nancy  
 Miller, Joseph  
 Schmidt, Peter  
 Taylor, Kathleen  
 Woods, Phyllis

**SULLIVAN**

Allison, David  
 Ferland, Brenda  
 Leone, Richard

Burling, Peter  
 Flint, Gordon Sr  
 Phinizy, James

Cloutier, John  
 Franklin, Peter  
 Rodeschin, Beverly

Donovan, Thomas  
 Jones, Constance

**NAYS 31****BELKNAP**

None

**CARROLL**

None

**CHESHIRE**

None

**COOS**

None

**GRAFTON**

Dorsett, Andrew                      Maybeck, Margie

**HILLSBOROUGH**

Adams, Jarvis	Balcom, John	Bruno, Pierre	Buhlman, David
Cernota, Albert	Christiansen, Lars	Crane, Elenore Casey	Elliott, Larry
Hagan, Barbara	L'Heureux, Robert	McElroy, Henry Jr	Mooney, Maureen
Pappas, Marc	Slocum, Lee	Wheeler, James	

**MERRIMACK**

Field, William	Foley, Albert	Kennedy, Richard	Langer, Ray
Leber, William	Marple, Richard	Nutter, Edward	Oliver, James
Soltani, Tony			

**ROCKINGHAM**

Bicknell, Elbert                      McMahon, Charles                      Morris, Richard

**STRAFFORD**

Cataldo, Sam                      Newton, Clifford

**SULLIVAN**

None  
and the veto was overridden by the necessary two-thirds.

**SENATE MESSAGE**

The Senate has voted to override the Governor's veto on the following bill:  
**SB 470-FN**, relative to funding for the physician effectiveness program, and establishing a dedicated fund.

**GOVERNOR'S VETO MESSAGE ON SB 470**

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, I have vetoed Senate Bill 470, an act relative to funding for the physician effectiveness program, and establishing a dedicated fund  
SB 470 would increase the allocation from each physician license renewal from \$20 to \$30 and place that amount into a nonlapsing fund that would be kept distinct and different from all other funds. There is insufficient justification for the increase in physician effectiveness program funds called for by this bill. Further, recent data confirms that there is no need to increase the fee, as the current fund balance is more than adequate for the need  
Creation of dedicated, nonlapsing, fund is contrary to the principles upon which I believe that state government should operate.  
For these reasons, I have vetoed SB 470.

Sincerely,  
Craig R. Benson

The question being, notwithstanding the Governor's veto, shall **SB 470-FN**, relative to funding for the physician effectiveness program, and establishing a dedicated fund, become law?  
Reps. O'Neil and Pilliod spoke in favor.  
Pursuant to the New Hampshire Constitution, Part II, Article 44, a roll call, requiring a two-thirds vote of the House for approval, was taken.

**YEAS 318 NAYS 25**

**YEAS 318**

**BELKNAP**

Ahern, Omer Jr	Allen, Janet	Bartlett, Gordon	Clark, Charles
Fitzgerald, James	Flanders, Donald	Holbrook, Robert	Lafiam, Robert
Neddeau, Stephen	Pilliod, James	Rice, Thomas	Russell, David
Thomas, John	Wendelboe, Fran	Whalley, Michael	

**CARROLL**

Babson, David Jr  
McConkey, Mark  
Philbrick, Donald

Brown, Carolyn  
Morrow, Harry  
Stevens, Stanley

Dickinson, Howard  
Olimpio, J Lisbeth

Kenney, Bettie  
Patten, Betsey

**CHESHIRE**

Allen, Peter  
Espiefs, Peter  
Liebl, George  
Parkhurst, Henry  
Robertson, Timothy  
Weed, Charles

Dexter, Judson  
Fish, Douglas  
Manning, Joseph  
Pratt, Irene  
Smith, Edwin

Dunn, James  
Hunt, John  
Meader, David  
Pratt, John  
Tilton, Anna

Eaton, Daniel  
Laurent, John  
Mitchell, McKim  
Richardson, Barbara  
Webber, Amy

**COOS**

Brady, Mark  
Richardson, Herbert  
Woodward, David

Mears, Edgar  
Stohl, Eric

Poulin, Richard  
Theberge, Robert

Pratt, Leighton  
Tholl, John Jr

**GRAFTON**

Akins, Ralph  
Bleyler, Ruth  
Dudley, Terri  
Hammond, Lee  
Nordgren, Sharon  
Sorg, Gregory

Alger, John  
Cooney, Mary  
Eaton, Stephanie  
Ingbretson, Paul  
Scovner, Nancy  
Williams, Burton

Almy, Susan  
Densmore, Edward  
Gionet, Edmond  
Maybeck, Margie  
Sokol, Hilda

Benn, Bernard  
Dorsett, Andrew  
Giuda, Robert  
Naro, Debra  
Solomon, Peter

**HILLSBOROUGH**

Allan, Nelson  
Balcom, John  
Bergeron, Jean-Guy  
Cail, Kenneth  
Cemota, Albert  
Cote, Peter  
Dionne, Kimberley  
Fletcher, Richard  
Goyette, Peter Jr  
Haley, Robert  
Harrington, Paul  
Infantine, William  
Katsiantonis, Thomas  
L'Heureux, Robert  
Leach, Edward  
Martin, Mary Ellen  
Mercer, Robert  
Mosher, William  
Pappas, Christopher  
Reeves, Sandra  
Shaw, Barbara  
Sullivan, Jeffrey  
Tate, Joan

Allen, Timothy  
Baroody, Benjamin  
Bergin, Peter  
Carlson, Donald  
Clayton, William  
Coughlin, Pamela  
Dokmo, Cynthia  
Gargas, Carolyn  
Graham, John  
Hall, Charles  
Haytayan, Harry Jr  
Irwin, Anne-Marie  
Kopka, Angeline  
LaFlamme, Paul  
Lefebvre, Roland  
McElroy, Henry Jr  
Messier, Irene  
Movsesian, Lori  
Pappas, Marc  
Rowe, Robert  
Spiess, Paul  
Sullivan, Peter  
Vaillancourt, Steve

Arnold, Thomas Jr  
Batula, Peter  
Brassard, Paul  
Carter, Jeffrey  
Clemons, Jane  
Craig, James  
Drisko, Richard  
Gonzalez, Carlos  
Greenberg, Gary  
Hallyburton, Margaret  
Holden, Randolph  
Jasper, Shawn  
Kudalis, Debra  
Lasky, Bette  
Lessard, Rudy  
McHugh, Claire  
Michon, Stephen  
O'Brien, Lori  
Pilotte, Maurice  
Scanlon, Michael  
Stepanek, Stephen  
Sweeney, Cynthia

Artz, Lawrence  
Beaton, William  
Buckley, Raymond  
Carter, Mark  
Cote, David  
Desmarais, Vivian  
Emerton, Larry  
Gorman, Mary  
Hagan, Barbara  
Hansen, Ryan  
Hunter, Bruce  
Jean, Claudette  
Kurk, Neal  
Lawrence, James  
Luebker, Bernard  
McRae, Karen  
Moran, Edward  
Palangas, Eric  
Price, Pamela  
Schulze, Joan  
Sullivan, Francis  
Tahir, Saghir

**MERRIMACK**

Anderson, Eric  
Clarke, Claire  
DeJoie, John  
Gile, Mary  
Kenison, Leon

Blanchard, Elizabeth  
Currier, David  
DeStefano, Stephen  
Hamm, Christine  
Kennedy, Richard

Bouchard, Candace  
Daniels, Eric  
Field, William  
Hess, David  
Leber, William

Brueggemann, Donald  
Davis, Frank  
French, Barbara  
Jacobson, Alf  
Lockwood, Priscilla

MacKay, James  
Nutter, Edward  
Potter, Frances  
Soltani, Tony

Marple, Richard  
Osborne, Jessie  
Reardon, Tara  
Wallner, Mary Jane

Maxfield, Roy  
Owen, Derek  
Rodd, Beth

McCormick, Tom  
Perkins, Randy  
Seldin, Gloria

### ROCKINGHAM

Abbott, Dennis  
Bishop, Franklin  
Camm, Kevin  
Coes, Betsy  
Dodge, Robert  
Fesh, Bob  
Gillick, Thomas  
Hamel, Albert  
Hutchinson, Karen  
Johnson, Robert  
Kelley, Jane  
Letourneau, Robert  
McEachern, Paul  
Noyes, Richard  
Pitts, Jacqueline  
Rausch, James  
Shultis, Elizabeth  
Stone, Joseph  
Waterhouse, Kevin  
Weyler, Kenneth

Allen, Mary  
Blanchard, MaryAnn  
Carson, Sharon  
Cooney, Richard  
Dowd, John  
Flanders, John Sr  
Gleason, John  
Headd, James  
Ingram, Russell  
Johnson, Rogers  
Kobel, Rudolph  
Major, Norman  
McKinney, Betsy  
O'Neil, Michael  
Priestley, Anne  
Robertson, Carl  
Smith, Donald  
Tufts, J Arthur  
Weare, E Albert  
Wiley, Robert

Belanger, Ronald  
Bridle, Russell  
Casey, Kimberley  
Dalrymple, Janeen  
Doyle, Christopher  
Francœur, Sheila  
Gould, Kenneth  
Holland, James Jr  
Introne, Robert  
Katsakiores, George  
Langley, Jane  
Manning, John  
McMahon, Charles  
Packard, Sherman  
Putnam, Ed II  
Roessner, Kurt  
Smith, Paul  
Vallone, Matthew  
Welch, David  
Zolla, William

Bicknell, Elbert  
Cady, Harriet  
Clark, Vivian  
DiFruscia, Anthony  
Dumaine, Dudley  
Gilbert, Jeffrey  
Griffin, Mary  
Hughes, Daniel  
Itse, Daniel  
Katsakiores, Phyllis  
Langone, John  
McCann, Richard  
Norelli, Terie  
Pantelakos, Laura  
Quandt, Matthew  
Scamman, Stella  
Splaine, James  
Varrell, Thomas  
Weldy, Norman Jr

### STRAFFORD

Albert, Russell  
Callaghan, Frank  
Dunlap, Patricia  
Keans, Sandra  
Newton, Clifford  
Smith, Marjorie  
Twombly, James

Bemis, Alan  
Campbell, W Packy  
Hofemann, Roland  
Knowles, William  
Pelletier, Arthur  
Spang, Judith  
Vachon, Dennis

Berube, Roger  
Cataldo, Sam  
Johnson, Nancy  
Miller, Joseph  
Rollo, Deanna  
Taylor, Katherine  
Wall, Janet

Bickford, David  
Creteau, Irene  
Kaen, Naida  
Musler, George  
Schmidt, Peter  
Taylor, Kathleen

### SULLIVAN

Allison, David  
Ferland, Brenda  
Leone, Richard

Burling, Peter  
Flint, Gordon Sr  
Phinizy, James

Cloutier, John  
Franklin, Peter  
Rodeschin, Beverly

Donovan, Thomas  
Jones, Constance

### NAYS 25 BELKNAP

Boyce, Laurie

### CARROLL

Derby, Mark

Mock, Henry

### CHESHIRE

None

### COOS

None

### GRAFTON

None



**HILLSBOROUGH**

Adams, Jarvis  
Christiansen, Lars  
Mooney, Maureen  
Slocum, Lee

Balboni, Michael  
Crane, Elenore Casey  
Ober, Russell III  
Wheeler, James

Bruno, Pierre  
Elliott, Larry  
Pepino, Leo

Buhlman, David  
Gibson, John  
Ross, Lawrence

**MERRIMACK**

Foley, Albert

Langer, Ray

Oliver, James

Reed, Dennis

**ROCKINGHAM**

Morris, Richard

**STRAFFORD**

Easson, Timothy

Harrington, Michael

Woods, Phyllis

**SULLIVAN**

None

and the veto was overridden by the necessary two-thirds.

**SENATE MESSAGES**

The Senate has voted to sustain the Governor's veto on the following bills:

**SB 484**, establishing the Collaborative Practice for Emergency Contraception Act.

**SB 513**, relative to the death penalty.

**HB 503**, relative to septic system construction permits.

The Senate has voted to override the Governor's veto on the following bill:

**HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutual racing.

**ADJOURNMENT FROM EARLY SESSION**

Rep. Hess moved that the House now adjourn from the early session, that the business of the late session be in order at the present time, and when the House adjourns, it be to meet at the Call of the Chair.

Adopted.

**PERSONAL PRIVILEGE**

Rep. Francoeur addressed the House.

**UNANIMOUS CONSENT**

Reps. Jacobson, Hughes, Wendelboe, Itse and Rice addressed the House.

Rep. Hagan moved that the remarks of Reps. Jacobson and Rice be printed in the Permanent Journal. Adopted.

**REMARKS**

Rep. Jacobson: Thank you, Mr. Speaker. Several people have asked me if I were going to make a speech at my retirement. I did tell one person that I thought maybe I wouldn't and I would slip quietly into the mist of retirement. The response was, "You can't do that." And I said, "Why not?" "Because I won't let you!" So I'm here to make my retirement speech. Very simply, I want to thank all of you for the time of these past two years. Every one of you, including the staff, have contributed to my knowledge and to the enjoyment of the session. I have had a great experience in these 30 years and I want to thank all of the members, hundreds of them, with whom I've served over the past 30 years. It's been a great experience. I think that whatever may come, this form of local government is still a very good form of government. I leave with the satisfaction of having served as well as I could. I tried to understand the legislation that was before us and if I didn't, I then went and asked somebody for information and enlightenment.

Now, I can retire and I can stay home and enjoy the quiet life, and that's going to be fun. I do plan to write a book about 19<sup>th</sup> century New Hampshire, not about the big shots, but about ordinary people. Over the years I've collected hundreds of letters and documents and other material and I hope I will have the time and the energy to put it together.

Again, thank you for having the opportunity to serve with you these years. Thank you.

Rep. Rice: Thank you, Mr. Speaker. Before I get to the reason I am here, which is to say goodbye, I have a couple of adverse comments that I wish to make. Over the years I have become more and more distressed about what I see as a growing lack of respect and decorum in this chamber. I sit and listen and frequently, as many of you who, like I do, wear hearing aids know, you can't hear what's going on because there's so much background noise. I see year after year the number of people who get up and leave when somebody is speaking that they do not want to listen to. This is wrong. It is disrespectful. It's possible that the people you are leaving because of may not be worthy of respect, but their position is. You should sit and listen to them. This morning I heard Mr. Speaker call the House to order, if I remember right, five or six times before it happened. I think that's wrong. I wish there were more decorum, more respect, more politeness in this chamber. And I also wish that I would be here next fall, which I won't be, so that I could make these same comments to the incoming group.

Now for the reason I'm here, after 18 years, half as long as Alf has been around, I'm leaving. One of the reasons I'm leaving is because my hearing has degenerated to the point where I frequently don't hear what I think I'm hearing which may be an advantage. I've had a lot of fun here, I've learned a lot, I think I've made a few friends, I hope so. Even over here, there are some who I prefer to call friends. Good bye. Godspeed.

Rep. Vaillancourt moved that Rep. Wendelboe's remarks be printed in the Permanent Journal. Adopted.

### REMARKS

Rep. Wendelboe: Thank you, Mr. Speaker. It pains me to stand before you today and talk about this issue. Some of you may know I recently returned from China and one of the first protocols that we were taught was that you never make an accusation and point blame at an individual. That you say there is a problem without making an accusation of how the problem occurred. And I stand before you as a group of legislators as one saying I feel that we have a problem. And I think there were many things that added up to this problem. The good member from New Castle just pointed out his concerns dealing with SB 302 and some of the right-to-know issues. You may recall that when this House acted on SB 302 and it went to the Senate, word came back that there had been an error discovered and that it wasn't quite right and that the Senate solution was that they were going to take the spreadsheet and introduce it into the Senate Journal and that it would be fixed in Enrolled Bills. Now had one further step been taken and had that been sent back to us, everything would have been copacetic, as they say. But that wasn't done and when it got to Enrolled Bills there were changes made.

Now, there is statutory language that allows clerical type errors to be done, to be changed in Enrolled Bills. But that can only be if they are not material. And I'd like to read directly from *Mason's* as to the enrolling process. This is from Section 738. "An enrolled bill, in legislative parlance, is a reproduction or copy of the identical bill passed by both houses. After passage a bill is enrolled, authenticated by the signatures of the presiding officers and chief legislative officers of both houses and presented to the governor. The enrolling clerk or committee has no power or authority to modify in any respect a bill passed by the legislature, but a correction may be made by concurrent resolution prior to enrollment." That's the step I mentioned that we should have done. It then goes on to say, "A bill as enrolled and presented to the governor should be to the same effect as the bill passed by both houses of the legislature." And, I underscore, "A bill presented to the governor in a form different from that in which it was passed, if the change is material, is void even if signed. Correction of purely typographical errors or errors in form only apparently will not invalidate legislation." I have a very serious concern that if someone, and we well know that there are a number of communities who said they are going to go to court on 302, before they even get out of the box, all they have to do is say they want it declared null and void because of this particular section. I started raising this issue last Friday and I have talked to many people in leadership and I was told, "Don't worry, it's fine, it's done all the time." Well, I am worried and I kept asking, "Show me in writing why it's OK." That has not been done and I am very concerned. My intent today was to ask the same parliamentary inquiry that the good member from Cornish asked and I was told I would be ruled out of order, because I gave them the courtesy of letting them know in advance. I had hoped that as part of that parliamentary inquiry that I could ask, "Is there a mecha-

nism that we could fix this today, that we could introduce a special new piece of legislation by waving the rules to make statutory change showing that this House did vote on that change and take away the possibility of 302 being ruled as null and void." That opportunity, unfortunately, was not afforded.

There is an additional problem with 302. There's two different problems and you've been hearing and I think a lot of people are mixing the two. The one is the enrolling process. Mr. Hughes from New Castle has another problem with concerns on right-to-know. The third issue is as you may have heard recently is Senator Gatsas' concern that the language of the statute going back to 608 does not correlate to the number that the Department of Education came up with to base the distribution on. It's complex and it's hard to explain. When the Commissioner of Education was asked yesterday before Fiscal, "How did you reach this number?" he was very vague and he said that it was in a meeting of DRA and Department of Education and the Attorney General and that it was an oral meeting and that they knew what the legislature meant and they came up with a number based on what they thought the legislature meant. When I asked, "Show me in the language of the statute how you got to that number?" I was told that you really can't. The Commissioner was asked if there was anything in writing and he was very vague. Well, gee, I understand that something has appeared in writing. I've been asking for it but I haven't seen it. I'm looking forward to seeing it. I guess I will see it when everybody else sees it. But I still question what was nonspecific enough in the statute that a bunch of bureaucrats had to sit down and decide they were interpreting what the legislature meant.

In the recent court decision that came down from the court on the JCC and the unified bar, the court kind of took a side tour and very clearly made a statement that they are the final arbiter of legislative intent and that they never go into legislative intent unless the statutory language is not clear. I believe the language was very clear and that the number you come up with is, as Senator Gatsas says, to the tune of \$60 million more money, not only for '04 but also for '05. I feel that should have been addressed and it hasn't been.

So I think it's going to be a long, hot summer in court. I'm very disappointed but I feel that this House didn't have the opportunity to perhaps do the work it should have. I felt it was important to ring this bell and to say that if it's been the way that it's been done in the past, it's not the way it should be done in the future. I hope that it never happens again. Thank you.

### SENATE MESSAGE

The Senate has voted to override the Governor's veto on the following bill:

**HB 2004-FN L**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

### ADJOURNMENT MOTION

Rep. Hess moved that the House adjourn to the Call of the Chair.

Adopted.

The House adjourned at 12:40 p.m.

Attested by  
Karen O. Wadsworth  
Clerk of the House

**CLERK'S NOTE**  
**OUTSTANDING BILLS**

**At the time of adjournment on June 17, 2004, the following bills remained:**

**ON THE TABLE IN THE HOUSE**

**HB 220**, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations.

**HB 359**, establishing a procedure for apportioning state senate and representative districts.

**HB 760-FN-A**, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor.

**HB 1425**, relative to food safety in restaurants.

**SB 390**, relative to liability of third person under workers' compensation.

**NOT SIGNED OFF IN COMMITTEE OF CONFERENCE**

**HB 1227**, relative to land assessed for current use which is taken by eminent domain

**HB 1335-L**, relative to workers' compensation requirements for out-of-state employers doing business in New Hampshire.

**HB 1413**, relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school.

**SB 199**, revising the nurse practice act.

**SB 434**, relative to importing prescription drugs from Canada.

**ON THE TABLE IN THE SENATE**

**HB 107**, relative to bingo.

**HB 108**, relative to the adoption of an optional veterans' property tax credit.

**HB 499**, expanding opportunities for teacher certification.

**HB 829**, relative to ward boundaries in Manchester and Nashua to be used in state elections.

**HB 1290**, establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families.

**HB 1376**, relative to agency fees assessed pursuant to public employer collective bargaining agreements.

**HB 1424**, establishing a pharmaceutical study commission to study direct purchasing of prescription medicine.

**COMMITTEES CREATED BY 2004 CHAPTERS****EXTENDED REPORTING DATES FOR CHAPTER STUDY COMMITTEES**

**BOUNDARY COMMISSION TO STUDY BOUNDARY BETWEEN NEW HAMPSHIRE AND MAINE** (HB 343, Chapter 103:1, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:5, Laws of 2004.

**COMMISSION TO ASSESS THE OPERATING EFFICIENCY OF STATE GOVERNMENT** (HB 171, Chapter 1:1, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:10, Laws of 2004.

**COMMISSION TO RECOMMEND CHANGES IN THE COMMUNITY MENTAL HEALTH SERVICES** (HB 4, Chapter 319:146, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:1, Laws of 2004.

**COMMISSION TO STUDY THE CREATION OF AN INTEGRATED CRIMINAL JUSTICE INFORMATION SYSTEM** (HB 64, Chapter 24:2, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:4, Laws of 2004.

**COMMISSION TO STUDY THE RELATIONSHIP BETWEEN PUBLIC HEALTH AND THE ENVIRONMENT** (HB 1390, Chapter 114:2, Laws of 2000). Reporting date extended by HB 1403, Chapter 20:9, Laws of 2004.

**CONTRACTING PROCESS BETWEEN MANAGED CARE INSURERS AND HEALTH CARE PROVIDERS STUDY** (HB 470, Chapter 284:4, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:6, Laws of 2004.

**EXEMPTION FROM PROPERTY TAXES FOR NOT-FOR-PROFIT HOSPITALS** (HB 424, Chapter 121:1, Laws of 2002). Reporting date extended by HB 1403, Chapter 20:8, Laws of 2004.

**IMPLEMENTING A RECOMMENDATION OF THE NEW HAMPSHIRE ESTUARIES PROJECT MANAGEMENT PLAN** (SB 70, Chapter 236:1, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:11, Laws of 2004.

**MEDICAID PRESCRIPTION DRUG BENEFITS MANAGEMENT PROGRAM OVERSIGHT COMMITTEE** (HB 1218, Chapter 281:9, Laws of 2002). Amended by SB 383, Chapter 188:1, Laws of 2004.

**PRICING OF MILK PRODUCTS** (HB 481, Chapter 228:2, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:2, Laws of 2004.

**REDUCTION OF EXHAUST EMISSIONS FROM DIESEL ENGINES IMPACT STUDY** (HB 502, Chapter 18:1, Laws of 2003). Reporting date extended by HB 1403, Chapter 20:7, Laws of 2004.

**TASK FORCE ON FAMILY LAW** (HB 447, Chapter 250:1, Laws of 2002). Reporting date extended by HB 1403, Chapter 20:3, Laws of 2004.

**STATUTORY COMMITTEES AMENDED**

**ADVISORY COUNCIL ON CHILD CARE** (RSA 126-A:17). Membership repealed and reenacted by SB 416, Chapter 92:1, Laws of 2004.

**ASSESSING STANDARDS BOARD** (RSA 21-J:14-a). Membership and guidelines amended by HB 426, Chapter 203:3, Laws of 2004.

**BOARD OF MANUFACTURED HOUSING** (RSA 205-A:25). Amended by SB 348, Chapter 150:3, Laws of 2004.

**CAPITAL BUDGET OVERVIEW COMMITTEE** (RSA 17-J:2). Duties amended by SB 534, Chapter 257:37, Laws of 2004.

**CHARTER SCHOOLS AND OPEN ENROLLMENT LEGISLATIVE OVERSIGHT COMMITTEE** (RSA 194-B:21). Amended by SB 421, Chapter 222:8, Laws of 2004.

**ELECTRIC UTILITY RESTRUCTURING OVERSIGHT COMMITTEE** (RSA 374-F:5). Amended by SB 443, Chapter 164:1, Laws of 2004.

**GOVERNOR'S CAPITAL BUDGET ADVISORY** (RSA 9:3-A, IV). Amended by HB 326, Chapter 138:1, Laws of 2004.

**GUARDIANS AD LITEM BOARD** (RSA 490-C:1). Repealed and reenacted by SB 386, Chapter 189:1, Laws of 2004.

**HEALTH, EDUCATION REVIEW** (RSA 186:67-a). Duties amended by HB 1397, Chapter 34:1, Laws of 2004.

**LEGISLATIVE ETHICS COMMITTEE** (RSA 14-B:2). Duties and appointments amended by HB 1336, Chapter 86:1, Laws of 2004 and SB 526, Chapter 234:2, Laws of 2004.

**NATIONAL GUARD SCHOLARSHIP FUND COMMITTEE** (RSA 110-B:63). Amended by HB 65, Chapter 6, Laws of 2004 (Repeal date repealed).

**PERMISSIBLE FIREWORKS REVIEW COMMITTEE** (RSA 160-C:13). Amended by HB 1326, Chapter 247:4, Laws of 2004.

**STATE VETERANS' ADVISORY COMMITTEE** (RSA 115-A:2). Amended by SB 531, Chapter 170:1, Laws of 2004.

**TELECOMMUNICATIONS OVERSIGHT COMMITTEE** (RSA 374:22-h). Amended by HB 1221, Chapter 129, Laws of 2004.

### **2004 STATUTORY COMMITTEES**

#### **RSA 194-C:11 (established by HB 1281, Chapter 244:2, Laws of 2004) – SCHOOL ADMINISTRATIVE UNITS OVERSIGHT COMMITTEE**

Rep. John R.M. Alger, designee of the Chairman of the House Education Committee.

Sen. Jane O'Hearn, Chairperson of the Senate Education Committee.

Rep. Shawn N. Jasper, appointed by the Speaker of the House of Representatives.

Sen. Andrew R. Peterson, appointed by the Senate President.

Rep. Bruce F. Hunter (Finance), appointed by the Speaker of the House of Representatives.

Sen. Lou D'Allesandro (Finance), appointed by the Senate President.

#### **RSA 487:30 (HB 1131, Chapter 115:1, Laws of 2004) – COMMITTEE TO STUDY EXOTIC AQUATIC WEEDS AND SPECIES**

Reps. Richard B. Drisko, David H. Russell, Donald A. Brueggemann, Peyton B. Hinkle and D.L. Chris Christensen, appointed by the Speaker of the House.

Sen. Carl R. Johnson, appointed by the President of the Senate.

### **2004 CHAPTER STUDIES**

#### **HB 230 (Chapter 180:1, Laws of 2004) – COMMITTEE TO STUDY HOW TO IMPROVE THE PROCESSES OF THE JOINT LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES**

Reps. Betsey L. Patten (Administrative Rules), Nelson S. Allan (ED&A), Eric G. Stohl (Legislative Administration), Elbert I. Bicknell (alternate) and Robert S. Mercer (alternate), appointed by the Speaker of the House of Representatives.

Sens. Robert E. Clegg, Jr., Joseph A. Foster, Charles W. Morse, Andrew R. Peterson (alternate) and Robert K. Boyce (alternate), appointed by the President of the Senate.

#### **HB 551 (Chapter 237:2, Laws of 2004) – COMMITTEE TO STUDY THE PRESCRIPTION AND USE OF PSYCHOTROPIC DRUGS IN CHILDCARE CENTERS, PRESCHOOLS, AND PUBLIC SCHOOLS**

Reps. James R. MacKay, Mary Stuart Gile, Carolyn M. Gargas and Paul Ingbertson (alternate), appointed by the Speaker of the House.

Sen. Robert K. Boyce, appointed by the President of the Senate.

**HB 712 (Chapter 44:1, Laws of 2004) – COMMITTEE TO STUDY IMPROVING DATA COLLECTION AND SERVICE DELIVERY FOR HOME AND COMMUNITY-BASED LONG TERM SERVICES**

Reps. Peter F. Bergin, Maurice L. Pilotte and C. Brown, appointed by the Speaker of the House.  
Sens. Robert K. Boyce, Andre A. Martel and Iris W. Estabrook, appointed by the President of the Senate.

**HB 727 (Chapter 204:1, Laws of 2004) – COMMITTEE TO STUDY THE ISSUE OF SCHOOL CHOICE IN NEW HAMPSHIRE**

Sens. Jane E. O'Hearn, John S. Barnes, Jr. and Robert K. Boyce, appointed by the President of the Senate.

Reps. Sharon M. Carson, Deanna P. Rush and David N. Scott, appointed by the Speaker of the House.

**HB 730 (Chapter 128:1, Laws of 2004) – COMMITTEE TO STUDY COST OF PROVIDING WORKERS' COMPENSATION BENEFITS FOR FIREFIGHTERS, RESCUE WORKERS AND SAFETY WORKERS WHO CONTRACT CERTAIN COMMUNICABLE DISEASES**

Reps. Russell T. Ober, Jarvis Adams, Herbert Richardson, Paul Harrington and Roland Hofemann, appointed by the Speaker of the House.

**HB 1261 (Chapter 30:1, Laws of 2004) – COMMITTEE TO STUDY ALTERNATIVE USES FOR A CERTAIN REST AREA NEAR THE F.E. EVERETT TURNPIKE IN NASHUA**

Reps. Lori J. O'Brien, James E. Holland and Chris S. Malloy, appointed by the Speaker of the House.  
Sens. Andre A. Martel, Joseph D. Kenney, appointed by the President of the Senate.

**HB 1262 (Chapter 208:1, Laws of 2004) – COMMISSION TO STUDY WAYS TO ENCOURAGE MUNICIPAL RECYCLING EFFORTS AND TO STUDY THE TAX EXEMPTION FOR WATER AND AIR POLLUTION CONTROL FACILITIES UNDER RSA 72:12-a.**

Reps. Betsey L. Patten, Donald R. Philbrick, Burton W. Williams and Emma L. Rous, appointed by the Speaker of the House.

Sens. Carl R. Johnson, John S. Barnes, Jr., Bob Odell and Clifton C. Below, appointed by the President of the Senate.

The Commissioner of the Department of Environmental Services, or designee.

A member nominated by New Hampshire the Beautiful, Inc. and appointed by the Governor.

A member nominated by the Northeast Resource Recovery Association and appointed by the Governor.

Norman Fauteux, Epsom and Jo Ann McLaughlin, Manchester, public members, appointed by the Speaker of the House of Representatives.

**HB 1276 (Chapter 209:2, Laws of 2004) – SPECIAL NUMBER PLATES FOR VETERANS WHO WERE AWARDED THE BRONZE STAR OR THE SILVER STAR STUDY COMMITTEE**

Reps. Sherman A. Packard, Lawrence A. Artz, Russell T. Ober, III. And Brenda L. Ferland, appointed by the Speaker of the House.

Sen. Joseph D. Kenney, appointed by the President of the Senate.

**HB 1296 (Chapter 211:1, Laws of 2004) – COMMITTEE TO STUDY THE AUTHORITY TO INSPECT FOOD BY THE DEPARTMENT OF AGRICULTURE, MARKETS, AND FOOD, AND RELATIVE TO FOOD SERVICE LICENSURE**

Reps. Omer C. Ahern, Jr., Paul Ingbertson and David L. Babson, Jr., appointed by the Speaker of the House.

**HB 1298 (Chapter 134:1, Laws of 2004) – COMMITTEE TO STUDY DISPUTE RESOLUTION WITHIN THE CONTEXT OF PUBLIC EMPLOYEE LABOR RELATIONS**

Reps. Russell T. Ober, Jarvis Adams, Russell Bridle and Robert J. Giuda (alternate), appointed by the Speaker of the House.

Sen. Russell E. Prescott, appointed by the President of the Senate.

**HB 1311 (Chapter 84:1, Laws of 2004) – COMMITTEE TO STUDY DECREASING THE INSURANCE PREMIUM TAX**

Reps. Jeffrey D. Gilbert, Kevin L. Camm, Peyton B. Hinkle, Mark A. Brady and Christopher C. Pappas, appointed by the Speaker of the House.

Sens. Robert B. Flanders, Sheila Roberge and Lou D'Allesandro, appointed by the President of the Senate.

**HB 1316 (Chapter 111:8, Laws of 2004) – COMMITTEE TO STUDY THE FEASIBILITY OF UNBUNDLING COMMUNICATIONS SERVICES CHARGES**

Reps. Kurt J. Roessner, Mary E. Griffin and Susan W. Almy, appointed by the Speaker of the House.

Sens. Bob Odell, Robert K. Boyce and Lou D'Allesandro, appointed by the President of the Senate.

**HB 1326, Chapter 247:6, Laws of 2004) – COMMITTEE TO STUDY THE CLASSIFICATION OF CONSUMER AND DISPLAY FIREWORKS**

Reps. David A. Welch, Alan B. Bemis, John B. Hunt and James H. Oliver, appointed by the Speaker of the House.

Sens. Andrew R. Peterson and Sylvia B. Larsen, appointed by the President of the Senate..

**HB 1370 (Chapter 88:1, Laws of 2004) – COMMITTEE TO STUDY PROPERTY TAX RELIEF**

Reps. Shawn N. Jasper, Daniel M. Hughes, Susan W. Almy, Betsey L. Patten, Thomas J. Gillick and John M. Gibson, appointed by the Speaker of the House.

Sens. Robert K. Boyce, Charles W. Morse and Iris W. Estabrook, appointed by the President of the Senate.

**HB 1401 (Chapter 250:2, Laws of 2004) – COMMISSION TO STUDY RAILROAD MATCHING FUNDS**

Sen. Robert B. Flanders, appointed by the President of the Senate.

Reps. William E. Mosher, George N. Katsakiores and John W. Flanders, appointed by the Speaker of the House.

The governor, or designee.

The commissioner of the department of transportation, or designee.

A member of the New Hampshire Railroad Revitalization Association, nominated by the association and appointed by the governor.

**HB 1414 (Chapter 67:1, Laws of 2004) – COMMISSION TO STUDY ISSUES REGARDING THE WOMEN'S PRISON FACILITY**

Reps. David A. Welch (Criminal Justice), Kevin K. Waterhouse (Public Works) and Beth Rodd, appointed by the Speaker of the House.

Sen. John S. Barnes, Jr., appointed by the President of the Senate.

Richard Gerry, designee of the Commissioner of the Department of Corrections.

The Commissioner of the Department of Transportation, or designee.

One member who has expertise in issues regarding prison facilities, appointed by the Governor.

**HB 1416 (Chapter 35:2, Laws of 2004) – COMMITTEE TO STUDY ISSUES RELATED TO THE PROPERTY TAX EXEMPTION FOR WOODEN POLES AND CONDUITS**

Reps. Roessner, Ingram and Almy, appointed by the Speaker of the House.

Sens. Bob Odell, Robert K. Boyce and Lou D'Allesandro, appointed by the President of the Senate.

**HB 1428 (Chapter 251:5, Laws of 2004) – COMMISSION TO STUDY THE MEDICAL ASSISTANCE PROGRAM FOR HOME CARE FOR CHILDREN WITH SEVERE DISABILITIES**

Reps. Rogers J. Johnson and Michael D. Whalley, appointed by the Speaker of the House of Representatives.

Sens. Robert E. Clegg, Jr. and Sheila Roberge, appointed by the President of the Senate.

Mary P. Castelli, Concord, designee of the Commissioner of the Department of Health and Human Services



Terry Olsen-Marten, Concord, appointed by the Parent Information Center.

Sally Weiss, Deerfield, appointed by the Council for Children and Adolescents with Chronic Health Conditions.

One representative of The New Hampshire Pediatric Society, appointed by that organization.

Brian Collins, Dover, service provider, appointed by the Speaker of the House of Representatives.

Ann Holt, Raymond and Courtney Hiltz, Goffstown, public members, appointed by the Speaker of the House of Representatives and 2 of whom shall be appointed by the Senate President.

#### **HB 2004 (Chapter 262:3, Laws of 2004) – STATE TRANSPORTATION PLAN FUNDING COMMITTEE STUDY**

Seven members of the house of representatives, appointed by the speaker of the house, as follows:  
Reps. Edwin O. Smith, Edmond D. Gionet and John A. Graham, members of the Public Works and Highways Committee.

Reps. Robert S. Mercer and Robert K. Dodge, members of the Finance Committee.

Rep. Kurt J. Roessner, member of the Ways and Means Committee.

Rep. John R. Cloutier, other member.

Sens. Charles W. Morse, Robert E. Clegg, Jr., Joseph D. Kenney and Lou D'Allesandro, appointed by the President of the Senate.

#### **HJR 25 (Chapter 179, Laws of 2004) – COMMITTEE TO STUDY THE ISSUE OF ADVERTISING SIGNS IN THE STATE RIGHTS-OF-WAY IN LIGHT OF POSSIBLE CONFLICTS WITH FEDERAL LAW**

Reps. Edwin O. Smith, Janet G. Wall and Betsey L. Patten, appointed by the Speaker of the House.

Sens. Joseph D. Kenney, Robert B. Flanders and Sylvia B. Larsen, appointed by the President of the Senate.

#### **SB 376, Chapter 260:22, Laws of 2004) – LONG-TERM CARE REIMBURSEMENT COMMISSION**

Reps. Neal M. Kurk, Edward D. Densmore and Rogers J. Johnson, appointed by the Speaker of the House of Representatives.

Sens. Robert K. Boyce, Andre A. Martel and Iris W. Estabrook, appointed by the President of the Senate.

Three members appointed by the New Hampshire Association of Counties.

Richard E. Kellogg, designee of the Commissioner of Health and Human Services.

Two members representing the interests of private nursing homes, appointed by the New Hampshire Health Care Association.

Carol Guyer, designee of the Commissioner of the Department of Revenue Administration.

Meg Miller, Franklin (NNEAHS), and one appointed by the New Hampshire Association of Residential Care Homes.

Maryellen LaRoche, Chocorua and Mary DeVeau, Concord, appointed by the Home Care Association of New Hampshire.

#### **SB 413 (Chapter 220:1, Laws of 2004) – COMMISSION TO STUDY THE CONSTRUCTION TIME FRAME AND FINANCING FOR THE EXPANSION OF INTERSTATE ROUTE 93**

Reps. James B. Rausch, Candace C.W. Bouchard and John A. Graham, appointed by the Speaker of the House.

Sens. Sheila Roberge, Charles W. Morse and Robert E. Clegg, Jr., appointed by the President of the Senate.

One member from the financial field, appointed by the president of the senate.

One member from the construction field, appointed by the speaker of the house of representatives.

One member from the business field, appointed by the governor.

The commissioner of the department of transportation, or designee.

#### **SB 415 (Chapter 221:1, Laws of 2004) – LEGISLATIVE OVERSIGHT COMMITTEE ON THE PILOT PROJECT IN GRAFTON AND ROCKINGHAM COUNTY COURTS**

Reps. Carolyn M. Gargas, Daniel C. Itse and Mary Stuart Gile, appointed by the Speaker of the House.

Sens. Sheila Roberge, John T. Gallus and Joseph A. Foster, appointed by the President of the Senate.

Administrative Judge of the Family Division shall appoint one Judge in each county to serve as a liaison on the pilot project to the legislative Oversight Committee.

**SB 427 (Chapter 100:2, Laws of 2004) – COMMISSION TO EXAMINE ALL ASPECTS OF SAME SEX CIVIL MARRIAGES AND ITS LEGAL EQUIVALENTS**

Reps. Tony F. Soltani, James R. MacKay, Maureen C. Mooney, Paul A. Brassard and Steve Vaillancourt (alternate), appointed by the Speaker of the House.

Sens. Russell E. Prescott, John S. Barnes, Jr., Theodore L. Gatsas and Clifton C. Below, appointed by the President of the Senate.

The Attorney General, or designee.

One representative from the Department of Health and Human Services, appointed by the Commissioner of Health and Human Services.

One representative of the Governor's office, appointed by the Governor.

Ed Butler, Hart's Location (House) and Scott D. Earnshaw, Bedford (House), public members, appointed by the Speaker of the House and 2 of whom shall be appointed by President of the Senate.

The Chief Justice of the Superior Court, or designee.

The Administrative Judge of the Probate Courts, or designee.

**SB 430 (Chapter 161:2, Laws of 2004) – COMMITTEE TO STUDY THE FEASIBILITY OF MANDATING THAT HEALTH INSURERS PROVIDE MEDICAL LOSS INFORMATION TO SMALL GROUP EMPLOYERS**

Reps. Paul D. Spiess, Matthew Quandt and Kathleen N. Taylor, appointed by the Speaker of the House.

Sen. Robert B. Flanders, appointed by the President of the Senate.

**SB 443 (Chapter 164:2, Laws of 2004) – ENERGY PLANNING ADVISORY BOARD**

The Governor, or designee.

One member representing the Office of State Planning and Energy Programs.

Sen. Bob Odell (Energy & Economic Development), appointed by the President of the Senate.

Rep. John H. Thomas, (Science), appointed by the Speaker of the House of Representatives.

Graham Morrison, Concord and Thomas Frantz, Concord, representing the Public Utilities Commission, appointed by the Chairman.

Gary O'Connell, appointed by the Commissioner of the Department of Administrative Services.

Robert R. Scott, Air Resources Division, representing the Department of Environmental Services, appointed by the Commissioner.

One member representing the University System of New Hampshire, appointed by the Chancellor.

One member representing the Department of Transportation, appointed by the Commissioner.

One member representing the Department of Resources and Economic Development, appointed by the Commissioner.

The Consumer Advocate, or designee.

Two members of the Business and Industry Community, appointed by the Governor and Council.

**SB 453 (Chapter 226:1, Laws of 2004) – COMMITTEE TO STUDY THE TOBACCO MASTER SETTLEMENT AGREEMENT REVENUE STREAM IN THE STATE**

Sens. Carl R. Johnson, Robert B. Flanders and Iris W. Estabrook, appointed by the President of the Senate.

Reps. Shawn N. Jasper, Lee M. Hammond and Mary E. Griffin, appointed by the Speaker of the House

**SB 488 (Chapter 121:1, Laws of 2004) – COMMITTEE TO STUDY THE EFFECTS OF ELECTRIC UTILITY RESTRUCTURING ON STATE OWNED DAMS**

Sens. Carl R. Johnson, Bob Odell and Clifton C. Below, appointed by the President of the Senate.

Reps. Michael D. Harrington (Science), Harry C. Merrow (Resources), Dennis Reed (Fish and Game), Lee G. Slocum (Science), Judith T. Spang (Resources) and MaryAnn N. Blanchard (Finance), appointed by the Speaker of the House.

**SB 503 (Chapter 192:1, Laws of 2004) – COMMISSION TO STUDY THE BENEFIT OF MUNICIPALITIES USING BONDS FOR CONSTRUCTION, DEVELOPMENT, IMPROVEMENT, AND ACQUISITION OF BROADBAND FACILITIES**

Sens. Bob Odell and John T. Gallus, appointed by the President of the Senate.

Reps. Roy D. Maxfield (Science) and Jessie L. Osborne, appointed by the Speaker of the House of Representatives.

The Commissioner of the Department of Resources and Economic Development, or designee.

A representative from the New Hampshire ISP Association, appointed by the association.

A representative from the New Hampshire Municipal Association, appointed by the association.

A representative from the New England Cable Television Association, appointed by the association.

A representative from the Telephone Association of New Hampshire, appointed by the association.

One attorney who serves as a bond counsel to local government, appointed by the New Hampshire Bar Association.

A member of the Telecommunications Planning and Development Advisory Committee established under RSA 12-A:46, appointed by the chair of the committee.

A representative of open video suppliers, identified and appointed by the President of the Senate.

**SB 519 (Chapter 24:1, Laws of 2004) – COMMITTEE TO STUDY THE ESTABLISHMENT OF A FARM VIABILITY PROGRAM**

Sens. John S. Barnes, Jr., Clifton C. Below and John T. Gallus, appointed by the President of the Senate.

Reps. David L. Babson, Omer C. Ahern, Derek Owen, Burton W. Williams and Emma L. Rous, appointed by the Speaker of the House of Representatives.

**SB 534 (Chapter 257:27, Laws of 2004) – DEPARTMENT OF REVENUE ADMINISTRATION REORGANIZATION STUDY COMMITTEE**

Reps. Betsy L. Patten, Robert L. Wheeler, Eric G. Stohl and James M. Fitzgerald, appointed by the Speaker of the House

Sens. Robert B. Flanders, Andrew R. Peterson and Lou D'Allesandro, appointed by the President of the Senate.

**SB 534 (Chapter 257:32, Laws of 2004) – COMMISSION TO STUDY TRANSFERRING THE DIVISION OF PUBLIC WORKS FROM THE DEPARTMENT OF TRANSPORTATION TO A NEW BUREAU OF PUBLIC WORKS IN THE DEPARTMENT OF ADMINISTRATIVE SERVICES**

Reps. Edwin O. Smith (Public Works), Joseph E. Stone (Finance), John R. Cloutier (Public Works), Richard B. Drisko (Executive Departments) and Kevin K. Waterhouse, appointed by the Speaker of the House.

Sens. Robert E. Clegg, Jr., Charles W. Morse and Lou D'Allesandro, appointed by the President of the Senate.

The commissioner of transportation, or designee.

The commissioner of administrative services, or designee.

**SB 534 (Chapter 257:58, Laws of 2004) – COMMITTEE TO STUDY TRANSFERRING THE ADJUDICATORY FUNCTIONS OF OCCUPATIONAL REGULATORY BOARDS AND COMMISSIONS TO AN OFFICE OF ADMINISTRATIVE ADJUDICATIONS**

Reps. Michael O'Neil, Peter F. Bergin and Robert L. Wheeler, appointed by the Speaker of the House

Sens. Robert E. Clegg, Jr., Russell E. Prescott and Joseph A. Foster, appointed by the President of the Senate.

**RESIGNATIONS, DEATHS, SPECIAL ELECTIONS****RESIGNED**

12/31/02	Hills. 50	Guinta, Frank C., r
05/28/03	Rock. 75	Stritch, C. Donald, r
06/30/03	Hills. 64	Furman, Christine M., r
07/01/03	Hills. 65	Konys, Christine M., d
07/21/03	Ches. 24	Batchelder, Robert C., d
09/04/03	Rock. 77	Dupuis, Roland L., r
09/18/03	Merr. 34	Colcord, J.D., r
10/10/03	Merr. 33	Ouellette, Robert O., r
11/07/03	Rock. 82	Davidson, Robert A., Jr., d
01/08/04	Rock. 87	Dearborn, Bruce L., r
02/19/04	Hills. 57	Kerns, J. Edward, r
02/26/04	Rock . 80	Flayhan, Mary Lou, r&d
05/26/04	Merr. 37	Fraser, Leo W., Jr., r
5/26/04	Hills. 58	Fields, Dennis HL, r&d

**DECEASED**

8/11/03	Hills. 57	Goulet, Maurice E., r
2/08/04	Hills. 58	Milligan, Robert H., r&d
5/16/04	Carr. 7	Hatch, Paul R., r
6/05/04	Hills. 51	Johnson, Lionel W., d
7/08/04	Rock. 83	Ruffner, Walter, D., r

**SPECIAL ELECTIONS**

3/19/03	Hills. 50	Katsiantonis, Thomas, d
10/22/03	Hills. 65	Michon, Stephen T., d
12/17/03	Hills. 64	Martin, Mary Ellen T, d
03/10/04	Rock. 77	Dowd, John P., r
03/10/04	Merr. 34	Rodd, Beth, d
03/24/04	Rock. 82	Abbott, Dennis F., d

**CHANGE IN PARTY AFFILIATION**

12/19/02	Graf. 15	Naro, Debra A., (d to r)
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**PARTY BREAKDOWN ON THE 400 SEATS**

Republicans:	229 R	40 R&D	=	269
Democrats:	103 D	15 D&R	=	118
Currently elected and qualified:			=	387
Vacancies: Resignations 8, Deaths 5			=	013
Total Seats:			=	400
Men: 274, Women: 113				

**TABLE OF REFERENCES**  
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3	SB 431	53	SB 346	103	SB 176
4	SB 458	54	SB 347	104	SB 356
5	HB 465	55	SB 358	105	SB 361
6	HB 65	56	SB 379	106	SB 380
7	HB 72	57	SB 412	107	SB 399
8	HB 121	58	SB 424	108	SB 403
9	HB 258	59	SB 450	109	HB 1257
10	HB 459	60	SB 456	110	HB 1266
11	HB 620	61	SB 457	111	HB 1316
12	HB 749	62	SB 466	112	HB 422
13	HB 1141	63	SB 497	113	HB 493
14	HB 1154	64	SB 499	114	HB 532
15	HB 1160	65	SB 337	115	HB 1131
16	HB 1248	66	SB 438	116	HB 1136
17	HB 1260	67	HB 1414	117	HB 1202
18	HB 1292	68	HB 285	118	SB 452
19	HB 1325	69	HB 403	119	SB 455
20	HB 1403	70	HB 736	120	SB 469
21	SB 472	71	HB 761	121	SB 488
22	SB 479	72	HB 767	122	SB 377
23	SB 493	73	HB 1133	123	SJR 2
24	SB 519	74	HB 1135	124	SB 352
25	HB 464	75	HB 1155	125	SB 465
26	HB 1259	76	HB 1159	126	SB 504
27	SB 336	77	HB 1169	127	HJR 26
28	HB 812	78	HB 1210	128	HB 730
29	HB 1130	79	HB 1212	129	HB 1221
30	HB 1261	80	HB 1225	130	HB 1224
31	HB 1275	81	HB 1301	131	HB 1226
32	HB 1334	82	HB 1308	132	HB 1230
33	HB 1352	83	HB 1309	133	HB 1243
34	HB 1397	84	HB 1311	134	HB 1298
35	HB 1416	85	HB 1329	135	HB 1302
36	HB 1426	86	HB 1336	136	HB 1312
37	SB 340	87	HB 1361	137	HB 1422
38	HB 1254	88	HB 1370	138	HB 326
39	HB 133	89	HB 1372	139	HB 1320
40	HB 440	90	HB 1374	140	SB 99
41	HB 444	91	HB 1423	141	SB 207
42	HB 622	92	SB 416	142	SB 301
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44	HB 712	94	SB 451	144	SB 314
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154	SB 359	192	SB 503	230	SB 498
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156	SB 370	194	HB 697	232	SB 508
157	SB 388	195	SB 324	233	SB 521
158	SB 392	196	SB 366	234	SB 526
159	SB 402	197	SB 367	235	SB 533
160	SB 418	198	SB 375	236	HB 369
161	SB 430	199	SB 414	237	HB 551
162	SB 439	200	SB 302	238	HB 618
163	SB 411	201	HB 176	239	HB 640
164	SB 443	202	HB 384	240	HB 643
165	SB 445	203	HB 426	241	HB 698
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## HOUSE JOURNAL NUMERICAL INDEX

This index, arranged by bill and resolution numbers, gives page numbers for all action in the House on each numbered bill and resolution. They are listed in the following order:

HB	House Bill
HJR	House Joint Resolution
HCR	House Concurrent Resolution
HR	House Resolution
SB	Senate Bill
SJR	Senate Joint Resolution
SCR	Senate Concurrent Resolution
CACR	Constitutional Amendment Concurrent Resolution

To find a bill by its subject see the Subject Index immediately following this NUMERICAL Index. All matters not relating to bills and resolutions will be found in the Subject Index.

The abbreviations listed below are used in the Numerical Index:

adop	adopted
am	amended, amendment
conc	concurred, concurrence
conf	conference committee
Criminal Justice	referred to Criminal Justice and Public Safety committee
enr	enrolled
Exec Depts	referred to Executive Departments and Administration committee
ext	extension of time for hearing
Finance	referred to Finance Committee
intro	introduced, introduction
IP	indefinitely postponed
K	killed (Inexpedient to Legislate)
LT	laid on the table
nonconc	nonconcurrent
opin	opinion
psd	passed
RC	roll call
rcmt	recommitted
recon	reconsideration, reconsidered
rej	rejected
rem	removed from consent calendar
rep	report
req	requests, requested
ret	retained
S	Senate
S Ct	New Hampshire Supreme Court
SO	special order
study	referred to interim study committee
vac	vacate
Ways & Means	referred to Ways and Means committee
wthd	withdrawn

## 2004 SESSION

## 2003 HOUSE BILLS RETAINED IN COMMITTEE

**HB 53**, relative to retail motor vehicle sales.

**new title:** relative to the sale of salvage and rebuilt vehicles.

**2<sup>nd</sup> new title:** relative to the sale of salvage and rebuilt vehicles and relative to abandoned vehicles.

am 56-57, psd 66, conc S am 579, enr am 700, enr 747 (Chapter 96)

**HB 65**, relative to educational assistance for national guard members.

psd 56, 66, conc S am 342, enr am 522, enr 523, committee amended 928 (Chapter 6)

**HB 72**, granting authority to impose administrative fines for the violation of certain laws or rules of the department of agriculture, markets and food.

am 114-115, psd 159, S conc 438, enr 523 (Chapter 7)

**HB 74**, establishing a task force on the siting of new district courts.

K 29-30

**HB 85-FN-L**, requiring the exclusion of certain one-time expenditures prior to the adoption of a default budget in cities and towns that have adopted official ballot voting.

**new title:** relative to the budget adoption procedure in political subdivisions which have adopted official ballot voting.

am 37-38, psd 66, nonconc S am 841

**HB 107**, relative to bingo.

S LT 926

**HB 108**, relative to the adoption of an optional veterans' property tax credit.

S LT 926

**HB 115**, relative to nonrenewal of homeowner's insurance policies.

K 71-72

**HB 116-FN**, granting group II retirement system status to certain positions in the department of corrections.

study 125

**HB 119**, relative to removing names from the checklist.

K 17

**HB 121**, relative to grounds for modification of a permanent child custody order.

conc S am 341, enr 523 (Chapter 8)

**HB 133-L**, relative to amending certain articles of agreement in the Fall Mountain regional cooperative school district.

am 73-74, psd 159, conc S am 574, enr 628 (Chapter 39)

**HB 134-FN**, relative to recommendations, appointments, and qualifications of marital masters and procedures for cases heard by marital masters.

S study 67

**HB 138-FN**, relative to interpreters for the deaf in certain governmental or public proceedings.

study 10

**HB 141**, prohibiting the use of automatic dialing systems for telephone solicitation.

K 5

**HB 143-FN**, relative to the registration fees and requirements for snow traveling vehicles.

K 192



- HB 145**, relative to the Claremont and Newport district courts.  
K 30
- HB 152**, relative to regulation by political subdivisions of OHRV trails and exempting certain rail trails use from the state trail evaluation process.  
study 55
- HB 154-FN**, establishing a department of financial services.  
K 19
- HB 158**, allowing the voter to deposit the ballot into the ballot box.  
psd 17, 66, S nonconc 439
- HB 161-FN-L**, relative to residency in determining entitlement to local welfare assistance.  
K 38-89
- HB 167**, relative to complaints against judges.  
S nonconc 67
- HB 170**, relative to the notice of proposed rulemaking under the administrative procedure act.  
K 19
- HB 174**, relative to homeowner's insurance and the ownership of certain breeds of dogs.  
K 5
- HB 176**, relative to listing candidates on ballots.  
**new title:** relative to listing candidates on ballots and relative to instructions to voters.  
rem 2, psd (RC0 61-63, 66, nonconc S am, conf 785, 831, rep adop 884, 885, enr 902 (Chapter 201)
- HB 217**, relative to emergency powers of the supreme court.  
K 30
- HB 220**, creating a committee to study amending the constitution to require that government decisions affecting the environment reflect consideration of the welfare of future generations.  
LT (RC) 115-118, 926
- HB 227**, establishing a committee to study the feasibility of consolidating the administrative functions of regulatory boards and commissions into a single agency.  
study 125
- HB 230**, establishing a committee to study procedures for the joint legislative committee on administrative rules to introduce legislative changes.  
**new title:** establishing a committee to study how to improve the processes of the joint legislative committee on administrative rules and making certain revisions to RSA 541-A, the Administrative Procedure Act.  
am 34-37, psd 66, conc S am 704, enr am 845, enr 848, appointments 928 (Chapter 180)
- HB 235**, relative to removal of political advertising.  
K 18
- HB 236**, relative to recount application deadlines.  
psd 18, 66, S nonconc 629
- HB 243**, relative to motor vehicle exhaust noise standards.  
SO 203, am 220, psd 231, nonconc S am, conf 580, 831, rep adop 884, 885, enr am 901, enr 906 (Chapter 259)
- HB 258**, relative to the community-technical college system.  
**new title:** relative to the regional community-technical college system and relative to the bonding of a Cannon Mountain capital appropriation.  
conc S am 342, enr am 522, enr 523 (Chapter 9)

**HB 264**, establishing state representative districts.

**new title:** relative to state senate districts.

am (4RCs) & remarks 78-107, psd 159, conc S am 836-837, enr 848 (Chapter 178)

**HB 265**, relative to the health care delivery system.

am 72-73, psd 159, S nonconc 577

**HB 266**, requiring youth bicyclists and skateboarders to wear protective headgear.

**new title:** requiring youth bicyclists to wear protective headgear.

SO 203, am & K (2RCs) 220-225, recon rej(RC) 240-243

**HB 274-A**, making an appropriation for the restoration of the White Island Light Station.

K 26

**HB 276-FN**, relative to protective custody for intoxicated or incapacitated persons.

study 10-11

**HB 285**, relative to establishing non-amendable articles by voter petition.

**new title:** relative to warrant article recommendations in towns which have adopted the official ballot referendum form of meeting.

am 39-40, psd 66, S conc 628, enr 700 (Chapter 68)

**HB 299**, removing judicial discretion to order a divorced parent to contribute to an adult child's college expenses.

S conc 67, enr am 160, enr 161 (Chapter 1)

**HB 304-A**, relative to state acquisition of certain acreage in the Connecticut Lakes headwaters tract and making an appropriation therefor.

S nonconc 204

**HB 307**, relative to municipal regulation of public highways.

K 40

**HB 325**, relative to the Henniker-Hillsborough district court and the New London district court.

K 30

**HB 326**, relative to establishing a 6-year capital budget.

conc S am 632, enr am 834, enr 847, committee amended 928 (Chapter 138)

**HB 328**, relative to the allocation of costs in court actions.

K 30

**HB 329-FN**, establishing a pilot program for the introduction of Grass Carp into Flints Pond in the town of Hollis.

K 27-28

**HB 341**, relative to performance budgeting of state programs and agencies.

study 19

**HB 342**, restricting the use and display of social security numbers and establishing a private right of action under the right to privacy act.

study 5-6

**HB 347**, limiting access to certain business records.

study 6

**HB 351**, requiring completion of a child impact seminar prior to filing for divorce.

rem 2, K(RC) 58-60

**HB 355-FN**, relative to the permissible fireworks review committee, the fireworks license fee, and the authority of the permissible fireworks inspector.

study 11

- HB 359**, establishing a procedure for apportioning state senate and representative districts.  
am & LT (2RCs) 108-113, 926
- HB 366**, relative to mercury reduction.  
am (RC) 196-202, psd 203, S nonconc 629
- HB 369**, relative to the Henniker and Hillsborough district courts.  
**new title:** relative to the Henniker and Hillsborough district courts and to the Hampton and Exeter district courts.  
Finance 158-159, am 361-362, psd 436, nonconc S am, conf 837, 844, rep adop 884, 885, enr am 901, enr 906 (Chapter 236)
- HB 381-FN**, requiring proposed bills and rules to include an analysis of their impact on personal privacy.  
K 37
- HB 382**, relative to state-funded health insurance.  
study 6
- HB 384**, relative to financial affidavits in domestic relations cases.  
nonconc S am, conf 580, 831, rep adop 884, 885, enr 902 (Chapter 202)
- HB 385**, requiring compliance with local ordinances in the establishment of public ATV and trail bike trails on private lands.  
study 55-56
- HB 388**, permitting the reduction of the speed limit within a business or urban residence district or within the compact part of cities or towns to 15 miles per hour.  
K 57
- HB 395**, relative to proof of qualifications for voter registration.  
K 18
- HB 403**, requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.  
**new title:** requiring a person found not guilty of certain sexual offenses by reason of insanity to register as a criminal offender.  
**2<sup>nd</sup> new title:** requiring persons who are acquitted of certain sexual assaults by reason of insanity to register as sexual offenders.  
am 11-13, psd 66, conc S am 574, enr am 629, enr 700 (Chapter 69)
- HB 421-FN-A**, relative to the waiting list for services for people with developmental disabilities and making an appropriation therefor.  
K (RC) 149-152
- HB 422**, relative to the selection of replacement justices for supreme court justices who are disqualified to hear cases.  
am 30-31, psd 66, conc S am 632, enr 829 (Chapter 112)
- HB 426**, relative to the monitoring and approval of appraisers by the commissioner of revenue administration.  
**new title:** relative to the certification of property assessors and assessing officials, the updating of tax maps by municipalities, the form for abatement applications, the enforcement of discretionary preservation easements, the annual appraisal of real estate, and reports on the status of monthly tax refunds.  
am 40-41, psd 66, nonconc S am, conf 837, 844, rep adop 884, 885, enr 902, membership & guidelines amended 927 (Chapter 203)
- HB 429**, relative to processing excavating and dredging permits.  
K 56

- HB 433**, establishing a committee to study the feasibility of implementing the Second Chance drug rehabilitation program in the New Hampshire prison system.  
K 13
- HB 440**, relative to the discharge of firearms on or across highways in pursuit of wild birds or animals.  
**new title:** relative to prohibited methods of taking wildlife in certain fish and game laws.  
am 28, psd 66, conc S am 574, enr 628 (Chapter 40)
- HB 444**, relative to summoning witnesses from another state.  
**new title:** relative to summoning witnesses from another state in certain actions involving children.  
am 31-31, psd 66, conc S am 575, enr 628 (Chapter 41)
- HB 459**, relative to market conduct examinations.  
**new title:** relative to the taxation of manufactured housing.  
am 6-9, psd 66, S conc 439, enr 523 (Chapter 10)
- HB 464-FN**, establishing a criminal penalty for facilitating a drug or underage alcohol house party.  
conc S am 341, enr am & enr 524 (Chapter 25)
- HB 465**, relative to the rulemaking authority of the department of health and human services and relative to licensing rules for health facilities.  
am 28-29, psd 66, S conc 341, enr 437 (Chapter 5)
- HB 473**, relative to the board of mental health practice.  
K 19
- HB 474**, relative to the appointment of alternates to sit at meetings of the planning and zoning boards and the rules of order used by local land use boards.  
K 41
- HB 479**, directing the department of administrative services to develop a plan for implementing an electronic purchasing system for the state.  
K 20
- HB 482**, establishing a committee to study certification of organic products.  
K 118
- HB 488**, relative to leaf and yard waste.  
K 41
- HB 492**, establishing a statement of parental rights relative to school disciplinary measures, the content of educational materials and surveys, and the use of psychological testing and psychiatric drugs in schools.  
study 74
- HB 493**, relative to the municipal budget act.  
rem 2, am 65, psd 66, S conc 701, enr 829 (Chapter 113)
- HB 499**, expanding opportunities for teacher certification.  
S LT 926
- HB 501**, ratifying certain actions of the Rye conservation commission.  
K 41
- HB 503**, relative to septic system construction permits.  
am 18-19, psd 66, S conc 573, enr am 526-527, enr 576, veto overridden (RC) 908-911, S sustained veto 923
- HB 511**, requiring New Hampshire Hospital security officers to be full-time certified police officers.  
**new title:** transferring authority over the New Hampshire hospital security force to the department of safety.  
am & Finance 20, K 362

- HB 516-L**, relative to the standard of review for requests for excavating and dredging permits.  
**new title:** relative to the standard of review for requests for excavating and dredging permits, and relative to an appropriation for the expansion of the Port of Portsmouth.  
**2<sup>nd</sup> new title:** relative to the standard of review for requests for excavating and dredging permits, relative to an appropriation for the expansion of the Port of Portsmouth, and relative to additional powers and duties of the Pease development authority.  
am 192-195, psd 203, conc S am 334, enr 337 (Chapter 2)
- HB 520-FN**, relative to maintaining records of greyhounds used in pari-mutuel racing.  
psd (3RCs) & recon rej 118-125, psd 159, conc S am 574, enr am 700-701, enr 829, veto overridden (RC) 911-914, 923 (Chapter 261)
- HB 532**, relative to notice and filing of divorce petitions.  
am 2-3, psd 65, conc S am 578, enr am 701, enr 829 (Chapter 114)
- HB 537**, establishing a 211 commission.  
K 56
- HB 541**, relative to the obligation of religious leaders to report child abuse.  
study 3
- HB 545**, requiring building contractors to disclose the name of any subcontractors involved in the project.  
study 9
- HB 551**, relative to the effect of parental refusal to administer psychotropic drugs to their children.  
**new title:** relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.  
**2<sup>nd</sup> title:** establishing a committee to study the use of prescription psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools.  
**3<sup>rd</sup> new title:** relative to the effect of parental refusal to administer psychotropic drugs to their children and establishing a committee to study the prescription and use of psychotropic drugs, including Ritalin, in childcare centers, preschools, and public schools  
am 3-5, psd 65, nonconc S am, conf 579-580, 831, rep adop 884, 885, enr am 901, enr 906, appointments 928 (Chapter 237)
- HB 559**, relative to grounds for termination of employment.  
rem 2, am 63-64, psd 66, S nonconc 629
- HB 563**, relative to the emancipation of minors.  
K 68-69
- HB 567-FN-L**, relative to telecommunications infrastructure in state-owned rights-of-way.  
study 48
- HB 583-FN**, requiring training for election officials.  
K 18
- HB 585-FN**, allowing teachers of private academies which provide public education to be included in the retirement system.  
K 126
- HB 587-FN**, relative to reimbursement for services provided in delinquency, children in need of services, and abuse and neglect proceedings.  
K 5
- HB 607-FN**, relative to the determination of just compensation in eminent domain proceedings.  
study 48

- HB 610-FN-L**, relative to reimbursement of public safety expenditures made by the town of Plymouth on behalf of Plymouth state college.  
K 152
- HB 612-FN-L**, increasing state appropriations to school districts for certain special education costs.  
**new title:** making certain changes to the allocation of catastrophic aid expenditures.  
am & Finance 74-75, study 452
- HB 618-FN-A**, establishing a property tax cap for persons over 65 years of age.  
**new title:** . making technical corrections to certain local property tax laws.  
**2<sup>nd</sup> new title:** making technical corrections to certain local property tax laws, relative to posting of municipal budgets, relative to claims for low and moderate income homeowners property tax relief, allowing the city of Manchester to issue certificates of occupancy and building permits for airport district aeronautical facilities, and authorizing Manchester Airport to tow and impound abandoned vehicles.  
am 41-42, psd 66, nonconc S am, conf 838, 844, conferee change 847, rep adop 884, 885, enr am 902-903, enr 906 (Chapter 238)
- HB 620-FN**, providing a right to counsel for indigent parents and other protections in cases involving the guardianship of minors.  
**new title:** providing various protections for parents in cases involving the guardianship of minors.  
conc S am 341, enr am 522, enr 523 (Chapter 11)
- HB 622-FN**, excluding tax abatement sessions from nonpublic sessions and including costs for non-attorney representatives under the right-to-know law.  
**new title:** clarifying certain exemptions from the right-to-know law.  
am 32, psd 66, conc S am 575, enr 628 (Chapter 42)
- HB 630-FN**, relative to enhanced penalties for assault on law enforcement officers, firefighters, emergency medical care providers, and national guard members.  
S study 67
- HB 640-FN**, relative to post-conviction DNA testing.  
am & Finance 13-16, psd 452, 501, nonconc S am, conf 837, 844, rep adop 884, 885, enr am 901, enr 906 (Chapter 239)
- HB 641-FN-A-L**, targeting aid for education to certain school districts.  
K 76
- HB 643-FN**, relative to establishing the family division of the courts statewide.  
**new title:** relative to the family division of the courts.  
**2<sup>nd</sup> new title:** relative to the family division of the courts and reducing the number of superior court justices.  
**3<sup>rd</sup> new title:** relative to the family division of the courts, reducing the number of superior court justices, and relative to marital masters.  
am 26-27, psd 66, nonconc S am, conf 632, 831, rep adop 884, 885, enr am 903, enr 906 (Chapter 240)
- HB 645-FN-A-L**, establishing a pilot program for partial tax abatements on new construction of private schools.  
**new title:** relative to the reimbursement of certain property taxes paid by qualifying private education institutions for the purpose of educational scholarship grants.  
**2<sup>nd</sup> title:** relative to educational scholarship grants by the postsecondary education commission to qualifying private education institutions.  
am & Ways and Means 42-43, am & Finance 263-264, study 452-453
- HB 649-FN-A**, establishing a building permit surcharge to fund regional planning initiatives.  
K 27

- HB 651-FN**, relative to portability of retirement plan funds into the New Hampshire retirement system and the purchase of prior service.  
**new title:** relative to the purchase of prior service credit by certain political subdivision employee members, and repealing certain provisions permitting additional contributions.  
**2<sup>nd</sup> new title:** relative to the purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.  
am & Finance 20-21, am 362-363, psd 436, nonconc S am, conf 837, 844, conferee change 847, rep adop 884, 885, (unable to agree)
- HB 652-FN**, relative to qualified wellness or disease management programs.  
psd 73, 159, conc S am 574, enr 628 (Chapter 43)
- HB 653-FN-A**, authorizing the production of industrial hemp.  
study 125
- HB 656-FN**, repealing the family division pilot program.  
**new title:** establishing a commission to study the operations of the family division court in Grafton county.  
am 32-33, psd 66, S nonconc 629
- HB 664-FN**, relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.  
am 16, psd 66, nonconc S am 632
- HB 681-FN-L**, relative to the allocation of a municipality's share of county taxes.  
study 43
- HB 686-FN**, relative to health insurance provided through the state.  
K 21
- HB 689-FN**, relative to drivers' licenses issued to persons under the age of 21.  
K 57
- HB 695-FN**, making placement of political advertising on public property subject to state litter laws.  
K 113-114
- HB 697-FN**, relative to the sale of motor fuel.  
am 48-51, psd 66, conc S am 836, enr am 848, enr 897 (Chapter 194)
- HB 698-FN**, relative to electronic toll collection.  
am & Finance 51-54, am(RC)464-468, psd 502, nonconc S am, conf 838, 844, rep adop 884, 885, enr am 903, enr 906 (Chapter 241)
- HB 704-FN**, relative to the retirement system classification for the director of field services, department of corrections.  
K 21-22
- HB 712-FN**, relative to long-term care.  
**new title:** establishing a committee to study methods of improving data collection and service delivery relative to home and community-based long-term care services.  
am 22-23, psd 66, S conc 628, enr 630, appointments 929 (Chapter 44)
- HB 713-FN**, relative to the penalty for violating a zoning ordinance.  
**new title:** relative to the penalty for violating a zoning ordinance, relative to governmental land uses, and relative to notice of zoning rehearings.  
**2<sup>nd</sup> new title:** relative to the penalty for violating a zoning ordinance.  
**3<sup>rd</sup> new title:** relative to the penalty for violating a zoning ordinance and relative to residences in industrial or commercial zones.  
am 44-45, psd 66, nonconc S am, conf 684, 832, rep adop 884, 886, enr am 903, enr 906 (Chapter 242)

- HB 715-FN**, requiring persons found incompetent to stand trial to be placed in the secure psychiatric unit.  
K 16-17
- HB 716-FN**, repealing procedures for administration of small estates.  
K 33
- HB 726-FN**, relative to enforcement of spousal support orders by the department of health and human services.  
study 5
- HB 727-FN-L**, revising the school administrative unit system.  
**new title:** establishing a legislative oversight committee for the school administrative unit system.  
**2<sup>nd</sup> new title:** establishing a committee to study the issue of school choice in New Hampshire.  
am 17, psd 66, nonconc S am, conf 837, 844, conferee change 847, rep adop 884, 886, enr 902, appointments 902 (Chapter 204)
- HB 729-FN**, relative to the regulation of tanning facilities.  
am 126-129, psd 159, conc S am 631, enr am 824-835, enr 847 (Chapter 177)
- HB 730-FN-L**, relative to workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.  
**new title:** establishing a committee to study workers' compensation benefits for firefighters, rescue workers, and safety workers who contract certain communicable diseases.  
am 33-34, psd 66, conc S am 785, enr 841, appointments 929 (Chapter 128)
- HB 734-FN-A**, establishing a pilot program to open the state house on Saturdays.  
K 37
- HB 736**, relative to duties of the fish and game commission and complaints against fish and game commissioners.  
psd 152, 159, conc S am 575, enr am 629, enr 700 (Chapter 70)
- HB 739-FN-A**, relative to the medicaid provider reimbursement system; and business and enterprise tax deductions for employers that offer long term care policies; study of the nursing leveraged scholarship program; development of a plan to establish nursing programs at the community technical colleges; the information and referral network for elderly and chronically ill adults and making an appropriation therefor.  
K 9
- HB 746-FN-A**, revising the property tax relief program.  
K 27
- HB 747**, establishing the crime victim employment leave act.  
K (RC)172-175
- HB 749**, relative to the description in a criminal complaint of the party accused.  
conc S am 341, enr 523 (Chapter 12)
- HB 754-FN-L**, establishing an education certificate program to allow parental choice in the selection of schools for children.  
study (RC)76-78
- HB 755**, relative to the burden of proof in child abuse and neglect proceedings.  
K (RC) 69-71
- HB 756-L**, promoting parental choice in education and providing for an abatement from the education taxes for parents of children not enrolled in the public school system.  
K 46



**HB 759**, relative to personal health and financial information privacy.

K 9

**HB 760-FN-A**, establishing the New Hampshire healthy families trust fund, increasing the tobacco tax, and making an appropriation therefor.

SO 203, LT 226, 926

**HB 761**, enabling towns to adopt subdivision regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

**new title:** enabling towns to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

**2<sup>nd</sup> title:** enabling municipalities to adopt subdivision and site plan review regulations that require innovative land use controls on certain lands when supported by the master plan, making a change in an innovative land use control, and relative to the preliminary review of subdivisions.

am 46-47, psd 66, conc S am 579, enr 700 (Chapter 71)

**HB 765-FN**, relative to consideration of a light rail commuter system and establishing a commission to oversee light rail progress.

K 54

**HB 767-FN**, relative to political advertising not authorized by the candidate.

am 114, psd 159, S conc 628, enr 700 (Chapter 72)

**HB 771-FN**, repealing exemptions to the consumer protection act.

study 9

**HB 775**, establishing a New Hampshire presidential primary advisory commission.

study 18

**HB 781-FN-A**, establishing the office of corrections ombudsman.

am & Finance 23-25, study 453

**HB 783-FN**, relative to penalties for simple assault, reckless conduct, and unsworn falsification.

K 17

**HB 784-FN-L**, relative to long-term care services.

K 29

**HB 785-FN**, requiring the commissioner of the department of education to establish a public school choice initiative.

study 27

**HB 793-FN-A**, relative to reimbursement rates for home health services and making an appropriation therefor.

K 152

**HB 794**, allowing the department of transportation to lease space for the provision of food service at state highway and turnpike rest stops.

K 54

**HB 803-FN-A-L**, establishing the New Hampshire downtown development program.

**new title:** relative to the establishment of municipal economic development and revitalization districts by municipalities.

am (RC) 175-182, psd 203, conc S am 836, enr 848 (Chapter 181)

**HB 812**, relative to state acquisition of privately-owned airports.

am & Finance 54-55, psd 277, 334, S conc 573, enr am 527, enr 576 (Chapter 28)

**HB 815**, relative to the duties of corporate directors and the procedure for shareholder inspection of records under the New Hampshire Business Corporation Act.  
study 9

**HB 820-FN-L**, relative to armed services and overseas voting.  
K 18

**HB 829**, relative to ward boundaries in Manchester and Nashua to be used in state elections.  
S LT 926

**HB 830-FN-A**, creating enterprise zones in which qualifying businesses are eligible for tax credits.  
K 58

**HB 832-FN**, relative to the privacy of medical records.  
K 9-10

**HB 835-FN**, relative to federal highway grant anticipation bonds.  
study 55

### (CLERK'S NOTE)

House Rules required all House legislation to be introduced in the first year of the 2003-2004 biennium. A supplemental filing period for legislation was held April 10 – 24, 2003. The introduction deadline date was suspended by the House on June 24, 2003. House action on supplemental legislation was held over to the 2004 legislative session.

The following House Bills are included in this category:

### 2004 SESSION

#### 2004 SUPPLEMENTAL HOUSE BILLS INTRODUCED IN 2003 SESSION

**HB 1126**, relative to obstructing or hindering hunting, fishing, or trapping of fish and game. (L. Christiansen, Hills 66; et al: Fish and Game)  
K 277

**HB 1127**, relative to consideration of road improvements in property appraisals. (Gilman, Graf 9: Municipal and County Government)  
K 280

**HB 1128**, relative to motor vehicle dealer registrations. (Greenberg, Hills 50: Transportation)  
K 376

**HB 1129**, prohibiting smoking in vehicles when child passenger restraints are required. (McCann, Rock 84; et al: Transportation)  
rem 272, K 333-334

**HB 1130**, relative to certain insurance agents. (DeStefano, Merr 41: Commerce)  
am 342, psd 436, S conc 573, enr 527 (Chapter 29)

**HB 1131**, requiring the department of environmental services to study the cost effectiveness of programs to control exotic aquatic weeds and to examine alternatives. (Drisko, Hills 46: Resources, Recreation and Development)  
**new title:** establishing a committee to study exotic aquatic weeds and species.  
am 370-371, psd 437, conc S am 632, enr 829, appointments 928 (Chapter 115)

**HB 1132-L**, establishing a committee to study allowing the operation of slot machines and keno in restaurants and establishments serving liquor. (DiFruscia, Rock 76; et al: Ways and Means)  
K 239

**HB 1133**, relative to disclosures required prior to a condominium sale. (Almy, Graf 18: Commerce)  
am 342-343, psd 436, conc S am 579, enr 700 (Chapter 73)

- HB 1134**, relative to appointment of the chief justice of the supreme court. (Rowe, Hills 47; et al: Judiciary)  
am (RC) 401-404, psd 437, S conc 628, enr 700, veto sustained (RC) 914-917
- HB 1135**, relative to appointment of the chief justice of the superior court. (Elliott, Hills 42; et al: Judiciary)  
am 278, psd 334, S conc 628, enr 700 (Chapter 74)
- HB 1136**, relative to homeowner exemptions from certain environmental permitting.  
**new title:** relative to homeowner exemptions from certain environmental permitting and relative to certification as a wetland scientist.  
**2<sup>nd</sup> new title:** relative to homeowner exemptions from certain environmental permitting, relative to certification as a wetland scientist and making certain technical corrections.  
am 371-372, psd 437, conc S am 632, enr 829 (Chapter 116)
- HB 1137**, relative to the use of impact fees. (McKinney, Rock 75; et al: Municipal and County Government)  
K 280
- HB 1138**, establishing a Nash Stream forest citizens committee. (King, Coos 1; et al: Resources, Recreation and Development)  
**new title:** establishing a Nash Stream forest citizens committee and relative to Connecticut Lakes headwaters tract natural areas camp leases.  
am 372-373, psd 437, S conc 577, enr 628 (Chapter 45)
- HB 1139**, relative to vehicles stopping in travel lanes. (Hallyburton, Hills 45: Transportation)  
K 214
- HB 1140**, relative to the disposal of surplus real estate. (Kennedy, Merr 34; et al: Public Works and Highways)  
K 211
- HB 1141**, relative to dioxin emissions reduction and medical waste incinerators. (Musler, Straf 68; et al: Science, Technology and Energy)  
psd 239, 267, S conc 439, enr 523 (Chapter 13)
- HB 1142**, relative to tort liability to third persons for oil spills. (Dickinson, Carr 4: Judiciary)  
rcmt 316, K 404
- HB 1143**, relative to legislators temporarily serving as county commissioners. (Kennedy, Merr 34: Municipal and County Government)  
K 446
- HB 1144**, establishing a committee to study banning alcohol sales at youth and family-oriented community events. (Kerns, Hills 57: Children and Family Law)  
K 205-206
- HB 1145**, prohibiting commercial faxes. (Kerns, Hills 57: Commerce)  
K 205-206
- HB 1146**, ratifying the national crime prevention and privacy compact. (Kerns, Hills 57: Criminal Justice and Public Safety)  
K 446
- HB 1147**, relative to the use of deadly force in defense of a fetus. (Kerns, Hills 57; et al: Criminal Justice and Public Safety)  
K 446

- HB 1148**, defining a wetland for the purpose of fill and dredge in wetlands. (Camm, Rock 79: Resources, Recreation and Development)  
**new title:** defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning.  
**2<sup>nd</sup> new title:** defining a wetland for the purpose of fill and dredge in wetlands and for local land use planning, relative to the wetlands council appeal process, relative to Smith Pond in Enfield, and relative to site plan review of certain trails.  
am 373, psd 437, nonconc S am, conf 838, 844, rep adop 884, 886, enr am 903, enr 906, (Chapter 243)
- HB 1149**, relative to the provision of credit reports to consumers. (Derby, Carr 7; et al: Commerce)  
K 343
- HB 1151**, relative to membership on the zoning board of adjustment. (Cady, Rock 73: Municipal and County Government)  
K 280
- HB 1152**, relative to the salaries of elected town officials. (Cady, Rock 73; et al: Municipal and County Government)  
K 280
- HB 1153**, relative to employment security. (Bishop, Rock 74; et al: Labor, Industrial and Rehabilitative Services)  
study 258
- HB 1154**, relative to the Hanover-Lebanon district court and the Plymouth-Lincoln district court. (Benn, Graf 17; et al: Judiciary)  
psd 210, 230, S conc 439, enr 523 (Chapter 14)
- HB 1155**, establishing a committee to study the feasibility of implementing a training program for school board members. (Bergin, Hills 47: Education)  
**new title:** clarifying alternative budget adoption procedures in school administrative units.  
am 274-275, psd 334, conc S am 579, enr 700 (Chapter 75)
- HB 1156**, establishing a committee to study the use of pesticides and herbicides in residential neighborhoods. (Diamond, Graf 17; et al: Environment and Agriculture)  
K 316
- HB 1157**, establishing a committee to study the feasibility of implementing model legislation on medical resident work hour restrictions. (Osborne, Merr 40; et al: Health, Human Services and Elderly Affairs)  
K 217
- HB 1158**, relative to a necessary quorum in town elections for motions to reconsider after voting polls have been open a period of more than 4 hours. (Drisko, Hills 46: Municipal and County Government)  
K 236-237
- HB 1159**, relative to prohibited employment for state liquor commission employees. (Mock, Carr 4; et al: Executive Departments and Administration)  
am 450-451, psd 501, S conc 628, enr 700 (Chapter 76)
- HB 1160**, relative to the membership of the board of professional geologists. (Bruno, Hills 45: Executive Departments and Administration)  
am 234, psd 267, S conc 439, enr 523 (Chapter 15)
- HB 1161**, relative to solicitation and marketing of insurance products. (Spiess, Hills 47: Commerce)  
am 343-344, psd 436, conc S am 574, enr 628 (Chapter 46)

- HB 1162**, relative to school district policies on bullying. (McRae, Hills 48; et al: Education) am 460, psd 502, nonconc S am, conf 785, 831, rep adop 884, 886, enr 902 (Chapter 205)
- HB 1163**, establishing a commission to study methods of increasing the number of insurance carriers doing business in New Hampshire. (McRae, Hills 48: Commerce) K 344
- HB 1164**, relative to moorings on Bow Lake. (M. Harrington, Straf 68: Resources, Recreation and Development) study 284
- HB 1165**, relative to extending domestic violence protection orders. (M. Harrington, Straf 68; et al: Criminal Justice and Public Safety) am 272, psd 334, nonconc S am, conf 632, 831, rep adop 884, 886, enr 902 (Chapter 206)
- HB 1166**, clarifying certain local regulation of OHRVs and relative to the operation of snow traveling vehicles on class VI roads. (Philbrick, Carr 5; et al: Resources, Recreation and Development) am 284-285, psd 334, S conc 577, enr 628 (Chapter 47)
- HB 1167**, requiring any driver to have headlights on when continuously operating windshield wipers during inclement weather. (Balcom, Hills 58; et al: Transportation) K 285
- HB 1168**, establishing a committee to study the effects of the current business tax structure on New Hampshire's economy. (Balcom, Hills 58; et al: Ways and Means) K 215
- HB 1169**, relative to child support calculations based on one-time or irregular income. (Hallyburton, Hills 45; et al: Children and Family Law) am 206, psd 230, S conc 628, enr 700(Chapter 77)
- HB 1170**, establishing a committee to study access to medical records of persons with highly communicable diseases. (Hammond, Graf 18; et al: Health, Human Services and Elderly Affairs) psd 218, 231, S nonconc 574
- HB 1171**, relative to official ballot voting on issuance of bonds or notes. (McKinney, Rock 75: Municipal and County Government) K 367
- HB 1172-L**, relative to compensation of county convention members for county business. (Welch, Rock 79; et al: Municipal and County Government) am 367-369, psd 436, S nonconc 701
- HB 1173**, establishing a committee to study the discontinuation of the use of social security numbers in the criminal justice system. (Kerns, Hills 57: Criminal Justice and Public Safety) K 273
- HB 1174**, relative to acceptance of electronic records by government agencies. (Cady, Rock 73: Executive Departments and Administration) K 234
- HB 1175**, relative to the use of official ballot referenda as an optional form of town meeting. (Anderson, Merr 41; et al: Municipal and County Government) K 281
- HB 1176**, relative to government access to private property. (Ahern, Belk 29; et al: Judiciary) K (RC) 255-258
- HB 1177-FN**, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics. (Wendelboe, Belk 29; et al: Judiciary) K (RC) 405-409, recon rej 37

- HB 1178-FN**, relative to sales of tobacco products to persons under 21 years of age. (Hammond, Graf 18; et al: Commerce)  
K 288
- HB 1179-FN**, relative to driver education training reimbursement. (Hammond, Graf 18; et al: Transportation)  
psd 285, 334, S nonconc 574
- HB 1180**, relative to the creation of express trusts for pets. (Hallyburton, Hills 45; et al: Commerce)  
K 344
- HB 1181**, relative to certain deliberative session amendment procedures in official ballot voting. (Scanlon, Hills 57: Municipal and County Government)  
K 420
- HB 1182-FN**, allowing municipalities to adopt a property tax exemption for long-time resident elderly persons. (McKinney, Rock 75: Municipal and County Government)  
K 281,
- HB 1183**, relative to transporting manufactured housing. (Bishop, Rock 74: Transportation)  
**new title:** relative to transporting manufactured housing or modular buildings.  
am 285-286, psd 334, conc S am 704, enr am 846, enr 848 (Chapter 182)
- HB 1184**, requiring all vehicles to be equipped with mud flaps or spray or splash guards. (L. Pratt, Coos 2: Transportation)  
K 239
- HB 1185**, relative to the adoption of amendments to articles proposed in the first session in official ballot proceedings. (Slocum, Hills 47; et al: Municipal and County Government)  
K 281
- HB 1186-FN**, relative to registration stickers issued to nonresidents operating snowmobiles in New Hampshire. (Woodward, Coos 3: Resources, Recreation and Development)  
K 211
- HB 1187-L**, allowing municipalities to deposit land use change tax revenues into a heritage fund. (Drisko, Hills 46: Municipal and County Government)  
K 503-504
- HB 1188**, relative to indoor air quality in public schools. (Pilliod, Belk 31; et al: Education)  
**new title:** relative to indoor air quality and indoor environmental standards in public schools and requiring public schools to develop a written building maintenance plan.  
Finance 243, am 468-470, psd 502, nonconc S am 841
- HB 1189-FN-L**, increasing the property tax credit for service-connected total disability. (Buckley, Hills 56; et al: Municipal and County Government)  
K 281
- HB 1190**, relative to exceptions to the carrying or selling of certain weapons. (Hopper, Hills 48; et al: Criminal Justice and Public Safety)  
K 446
- HB 1191-FN**, relative to court proceedings. (Ingbreton, Graf 13; et al: Judiciary)  
K 278
- HB 1192**, relative to psychotropic drug recommendations by public employees. (Ingbreton, Graf 13; et al: Health, Human Services and Elderly Affairs)  
K 208

- HB 1193**, establishing a committee to study the constitutionality of the federal income tax and constitutional abuses in the collection of the income tax and its effects on New Hampshire citizens. (Ingbreton, Graf 13; et al: State-Federal Relations and Veterans Affairs)  
K 375
- HB 1194**, establishing a study committee relative to notifying tenants of radon in rental units. (C. Laflamme, Hills 50; et al: Judiciary)  
K 219
- HB 1195-FN**, increasing the penalty assessment on fines imposed by the courts. (Tholl, Coos 2; et al: Criminal Justice and Public Safety)  
K 207
- HB 1196-FN-A-L**, relative to leasing a certain parcel of state-owned property to the town of Hopkinton. (Kennedy, Merr 34: Public Works and Highways)  
K 211
- HB 1197-FN-A-L**, relative to selling a certain parcel of state-owned property to the town of Hopkinton. (Kennedy, Merr 34: Public Works and Highways)  
K 211
- HB 1198**, relative to reporting child custody statistics. (Bickford, Straf 68: Children and Family Law) study 440
- HB 1199-FN-L**, relative to water connection fees. (Bickford, Straf 68; et al: Municipal and County Government)  
K 237
- HB 1200**, not introduced
- HB 1201**, prohibiting the application of the doctrine of adverse possession or prescription when boundary lines can be proven by a preponderance of the evidence. (Bickford, Straf 68; et al: Judiciary)  
rem 271, K 328
- HB 1202**, relative to third-party payment of covered services ordered by the juvenile court. (Bickford, Straf 68; et al: Commerce)  
am 441-443, psd 501, conc S am 631, enr 829 (Chapter 117)
- HB 1203-FN-A**, establishing a research and development tax credit against the business profits tax. (Elliott, Hills 42; et al: Ways and Means)  
study 240
- HB 1204-FN-A**, establishing an historic homeownership mortgage credit program. (Hamm, Merr 34: Commerce)  
K 207
- HB 1205**, establishing a committee to study alternative waste disposal systems. (Owen, Merr 34: Resources, Recreation and Development)  
K 285
- HB 1206**, establishing a committee to study the appropriateness of designating corporations as legal persons. (Owen, Merr 34: Judiciary)  
rem 205, SO 230, K 258
- HB 1207-FN-A**, relative to an Operation Iraqi Freedom service bonus payment. (Hofemann, Straf 69; et al: State-Federal Relations and Veterans Affairs)  
**new title:** relative to a Global War on Terrorism operations service bonus payment.  
am & Finance 212-213, am 470, psd 502, conc S am 836, enr am 899, enr 902 (Chapter 207)

- HB 1208**, relative to standards of certification in credentialing for New Hampshire public school food service directors and staff. (Francoeur, Rock 85; et al: Executive Departments and Administration)  
K 316
- HB 1209**, relative to substances added to public water supplies. (Hagan, Hills 50; et al: Resources, Recreation and Development)  
rem 272, K 333
- HB 1210**, relative to self-service storage facility liens. (Jasper, Hills 66: Commerce)  
psd 344, 436, S conc 628, enr 700 (Chapter 78)
- HB 1211**, relative to the expenditure of land use change tax revenues. (Jasper, Hills 66: Municipal and County Government)  
K 368
- HB 1212**, relative to the circumstances under which a juvenile may be committed to the youth development center until the age of 18. (Bickford, Straf 68; et al: Children and Family Law)  
am 206, psd 230, conc S am 479, enr 700 (Chapter 79)
- HB 1213-FN-L**, exempting persons age 70 and older from the state and local education portion of property taxes. (J. Flanders, Rock 79; et al: Ways and Means)  
K 215
- HB 1214-FN**, relative to the penalty for filing an erroneous default budget. (Putnam, Rock 79; et al: Municipal and County Government)  
K 281
- HB 1215**, relative to seasonal directional signs. (Derby, Carr 7; et al: Public Works and Highways)  
K 237
- HB 1216-FN-A**, making an appropriation to the small business innovation research support program. (Akins, Graf 18; et al: Finance)  
K 470
- HB 1217**, relative to apportioning state representative districts for Hillsborough county. (Balboni, Hills 59; et al: Election Law)  
K 275
- HB 1218**, relative to criminal threatening by public servants. (Cady, Rock 73; et al: Judiciary)  
K 278
- HB 1219-FN**, establishing penalties for transmission or distribution of obscene electronic mail. (Cady, Rock 73; et al: Criminal Justice and Public Safety)  
study 446
- HB 1220-FN**, relative to banning partial birth abortion. (Cady, Rock 73; et al: Judiciary)  
K (RC)475-477
- HB 1221**, establishing a committee to study repealing universal service telephone charges. (Cady, Rock 73; et al: Science, Technology and Energy)  
**new title:** urging the oversight committee on telecommunications to study aspects of federal universal service funding.  
**2<sup>nd</sup> new title:** relative to the universal service fund.  
rem 342, SO 436, am 509-510, psd 521, conc S am 704, enr 841, committee amended 928 (Chapter 129)
- HB 1222**, establishing a commission and authorizing a portrait of Vesta Roy, New Hampshire's first woman governor. (Elliott, Hills 42; et al: Executive Departments and Administration)  
K 234-235



- HB 1223**, establishing a committee to study state reimbursement to municipalities for emergency responses along interstate highways. (Ahern, Belk 29: Finance)  
K 277
- HB 1224**, establishing the Uniform Trust Code in New Hampshire. (Hunt, Ches 28: Commerce)  
am 377-400, psd 437, conc S am 704, enr 841 (Chapter 130)
- HB 1225-FN-A**, making administrative changes to the historic agricultural structure matching grants program and making an appropriation to the barn preservation fund. (Babson, Carr 6: Finance)  
**new title:** making administrative changes to the historic agricultural structure matching grants program.  
am 364, psd 364, S conc 577, enr am 629, enr 700 (Chapter 80)
- HB 1226-L**, establishing a debt retirement fund in the Governor Wentworth regional school district. (Babson, Carr 6: Education)  
psd 460-461, conc S am 747, enr 845 (Chapter 131)
- HB 1227**, relative to land assessed for current use which is taken by eminent domain. (Babson, Carr 6: Environment and Agriculture)  
am 234, psd 267, nonconc S am, conf 580, 831, clerk's note 926 (not signed off)
- HB 1228**, requiring legislative approval of changes in the uniform fine schedule. (Gibson, Hills 58; et al: Judiciary)  
**new title:** relative to changes to the uniform fine schedule.  
am 365, psd 436, conc S am 836, enr 848 (Chapter 183)
- HB 1229**, establishing a commission to study bioaccumulative toxic chemicals. (Phinizy, Sull 23; et al: Environment and Agriculture)  
study 234
- HB 1230-FN**, relative to abandoned deposits held by telephone utilities and relative to public interest payphones. (Phinizy, Sull 23; et al: Science, Technology and Energy)  
am 374-375, psd 437, conc S am 632, enr am 832, enr 845 (Chapter 132)
- HB 1231-FN**, relative to the state flag. (Morris, Rock 84; et al: Executive Departments and Administration)  
K 276
- HB 1232-FN**, allowing a disabled person to enroll in a class free of charge at any institution within the university system of New Hampshire, provided a seat is available in the class. (Akins, Graf 18: Education)  
study 233
- HB 1233**, relative to the accuracy of information used by consumer reporting agencies. (Almy, Graf 18: Commerce)  
K 344-345
- HB 1234**, establishing a study committee to examine ways to prevent and address homelessness in New Hampshire. (Morris, Rock 84; et al: Health, Human Services and Elderly Affairs)  
K 208
- HB 1235-FN**, establishing a criminal penalty for throwing an incendiary object from a motor vehicle. (Morris, Rock 84; et al: Criminal Justice and Public Safety)  
K 232-233
- HB 1236-FN-L**, relative to municipal use of impact fees. (Bruno, Hills 45: Municipal and County Government)  
K 368

- HB 1237**, allowing deer hunting with a primitive flintlock muzzleloader. (Kennedy, Merr 34; et al: Fish and Game)  
K 277
- HB 1238-FN**, requiring interpreters for persons with limited English proficiency in court and administrative proceedings. (Dumaine, Rock 75: Judiciary)  
K 210
- HB 1239**, relative to records access by private investigators. (Dumaine, Rock 75: Criminal Justice and Public Safety)  
study 273
- HB 1240**, prohibiting minors from sitting in the smoking sections of restaurants. (Cloutier, Sull 22; et al: Commerce)  
K 345
- HB 1241**, exempting from the state employee hiring delay certain positions within the regional community-technical college system which are directly responsible for child care. (Gile, Merr 38; et al: Executive Departments and Administration)  
am & Finance 254, psd 453, 501, S nonconc 629
- HB 1242**, establishing a committee to study protecting law enforcement officers and others from public disclosure of their personal information. (Kurk, Hills 48; et al: Judiciary)  
K 278
- HB 1243**, prohibiting the collection of biometric data. (Kurk, Hills 48; et al: Transportation)  
am 286-287, psd 334, conc S am 704, enr 841 (Chapter 133)
- HB 1244**, relative to subcontractors' liens for labor and materials. (McRae, Hills 48; et al: Commerce)  
K 443
- HB 1245**, nullifying the Sixteenth amendment to the United States Constitution. (McElroy, Hills 61; et al: State-Federal Relations and Veterans Affairs)  
K 375
- HB 1246**, nullifying the USA Patriot Act. (McElroy, Hills 61; et al: State-Federal Relations and Veterans Affairs)  
K 375
- HB 1247-FN**, relative to a statewide law library network. (Franklin, Sull 20: Judiciary)  
study 210
- HB 1248-FN**, adding a licensed nursing assistant member to the state board of nursing. (Elliott, Hills 42: Executive Departments and Administration)  
**new title**: relative to the state board of nursing.  
am 235, psd 267, S conc 439, enr 523 (Chapter 16)
- HB 1249-FN**, relative to the recreational taking of lobster by scuba diving. (M. Harrington, Straf 68; et al: Fish and Game)  
study 277
- HB 1250**, not introduced
- HB 1251-FN-A**, establishing an income tax. (M. Harrington, Straf 68: Ways and Means)  
K (RC) 227-229
- 1252-FN**, requiring the posting of notice by uninsured liquor licensees. (Burling, Sull 19; et al: Commerce)  
K 345
- HB 1253-FN-L**, prohibiting public funds, employees, and facilities to assist or perform abortions. (Easson, Straf 68; et al: Judiciary)  
K (RC) 317-319

- HB 1254-FN**, granting certain disabled veterans an exemption from state education property taxes. (Easson, Straf 68; et al: Ways and Means)  
**new title:** relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program.  
**2<sup>nd</sup> new title:** relative to the postsecondary education vocational school licensing fund and the forgivable loan fund in the workforce incentive program, and authorizing the liquor commission to expend funds for the purpose of leasing new locations in Bedford and Seabrook. am 240, psd 267, conc S am 579, enr am 628, enr 630 (Chapter 38)
- HB 1255**, relative to the procedure for calling for a special town or school district meeting. (Scanlon, Hills 57: Municipal and County Government)  
K 281-282
- HB 1256**, relative to a buddy system for firefighters. (Patten, Carr 7; et al: Municipal and County Government)  
K 420
- HB 1257-FN**, relative to penalties for driving under the influence with a minor in the vehicle. (R. L'Heureux, Hills 58; et al: Criminal Justice and Public Safety)  
am 446-447, psd 501, conc S am 631, enr 829 (Chapter 109)
- HB 1258-FN**, establishing supporting public schools number plates. (Pelletier, Straf 71: Transportation)  
K 287
- HB 1259**, relative to the medical certification required for a walking disability plate or placard. (Buhlman, Hills 66; et al: Transportation)  
psd 214, 231, S conc 522, enr am & enr 524 (Chapter 26)
- HB 1260**, naming the new Route 9 bridge over the Connecticut River between New Hampshire and Vermont the United States Navy Seabees Bridge. (Buhlman, Hills 66; et al: Public Works and Highways)  
psd 261-262, S conc 439, enr 523 (Chapter 17)
- HB 1261**, relative to closing a certain rest area on the F. E. Everett turnpike. (P. Laflamme, Hills 61: Public Works and Highways)  
**new title:** establishing a committee to study alternative uses for a certain rest area on the F. E. Everett turnpike.  
am 283-284, psd 334, S conc 573, enr 527, appointments 929 (Chapter 30)
- HB 1262**, establishing a committee to study ways to encourage municipal recycling efforts. (Rous, Straf 72; et al: Environment and Agriculture)  
**new title:** establishing a commission to study ways to encourage municipal recycling efforts.  
**2<sup>nd</sup> new title:** establishing a commission to study ways to encourage municipal recycling efforts and making certain changes to the tax exemption for water and air pollution control facilities.  
**3<sup>rd</sup> new title:** establishing a commission to study ways to encourage municipal recycling efforts and to study the tax exemption for water and air pollution control facilities.  
am 359, psd 436, nonconc S am, conf 580, 831, rep adop 884, 886, enr am 899, enr 902, appointments 929 (Chapter 208)
- HB 1263**, establishing a committee to study the feasibility of creating a trust fund to support a family and disability leave program. (Gile, Merr 38; et al: Labor, Industrial and Rehabilitative Services)  
psd 278, 334, S nonconc 701
- HB 1264**, relative to advertisement of prescription drugs. (DeJoie, Merr 39; et al: Commerce)  
study 443

- HB 1265**, establishing a committee to study prescriptive authority of qualified psychologists. (DeJoie, Merr 39; et al: Executive Departments and Administration)  
K 254-255
- HB 1266**, relative to the long-term care ombudsman. (MacKay, Merr 39: Health, Human Services and Elderly Affairs)  
Finance 208, psd 364, 436, conc S am 632, enr 829 (Chapter 110)
- HB 1267**, requiring fast food restaurants to provide nutritional information to consumers. (Lan-  
gley, Rock 88; et al: Commerce)  
K 345
- HB 1268**, relative to bank reserve and lending procedures. (Marple, Merr 37; et al: Commerce)  
rem 205, K 229-230
- HB 1269**, establishing a citizens' legislative redistricting advisory board. (Burling, Sull 19; et al:  
Election Law)  
K (RC) 288-291
- HB 1270**, prohibiting the deduction of any taxes from mileage reimbursement checks for house  
members. (Marple, Merr 37; et al: Legislative Administration)  
K & protest 258-259
- HB 1271-FN**, repealing the license to carry provisions of state law. (Marple, Merr 37; et al: Crimi-  
nal Justice and Public Safety)  
K 447
- HB 1272**, relative to allowing towns to have an official ballot vote on the issuance of specific bonds  
or notes. (Scanlon, Hills 57: Municipal and County Government)  
K 368
- HB 1273**, relative to the use of trails managed by OHRV clubs. (King, Coos 1: Resources, Rec-  
reation and Development)  
K 211
- HB 1274**, relative to evidence admissible in sexual assault cases. (Hopper, Hills 48; et al: Crimi-  
nal Justice and Public Safety)  
study 447
- HB 1275-FN-A**, relative to the role of the department of health and human services in juvenile  
proceedings. (Bickford, Straf 68; et al: Children and Family Law)  
psd 217, 231, S conc 574, enr 527 (Chapter 31)
- HB 1276-FN**, establishing Bronze Star and Silver Star number plates. (Hallyburton, Hills 45; et  
al: Transportation)  
**new title:** relative to special number plates for veterans and establishing a committee to study  
establishing special number plates for veterans who were awarded the Bronze Star or the  
Silver Star.  
**2<sup>nd</sup> new title:** relative to special number plates for veterans, establishing a committee to study  
establishing special number plates for veterans who were awarded the Bronze Star or the Silver  
Star, authorizing rules relating to certain commemorative license plates, and requiring an  
additional fee for certain motor vehicle registrations.  
am 376-377, psd 437, nonconc S am, conf 580, 831, rep adop 884, 886, enr 902, appoint-  
ments 929 (Chapter 209)
- HB 1277-FN**, requiring assisted living facilities to have certain security measures for residents.  
(C. Bouchard, Merr 39; et al: Health, Human Services and Elderly Affairs)  
K 218

- HB 1278-FN-L**, relative to the applicable minimum wage for hourly employees. (Keans, Straf 67; et al: Labor, Industrial and Rehabilitative Services)  
K (RC) 417-420, recon rej (RC) 428-431
- HB 1279**, establishing a committee to study the adoption and implementation of the multistate forensic DNA compact in New Hampshire. (Kerns, Hills 57: Criminal Justice and Public Safety)  
K 273
- HB 1280-FN**, establishing limited driving privileges special licenses. (Kerns, Hills 57: Transportation)  
K 239
- HB 1281**, relative to the determination of the amount of taxes to be raised to support a cooperative school district. (Hunt, Ches 28: Ways and Means)  
**new title:** permitting the adoption of an alternative cost apportionment method in a cooperative school district.  
**2<sup>nd</sup> new title:** permitting the adoption of an alternative cost apportionment method in a cooperative school district, establishing a legislative oversight committee for the school administrative unit system, and relative to notification of education grant amounts to municipalities.  
rem 232, am 264-267, psd 267, nonconc S am, conf 838, 845, rep adop 884, 886, enr am 903-904, enr 906, appointments 928 (Chapter 244)
- HB 1282**, relative to exemptions from the consumer protection act. (Hunt, Ches 28: Commerce)  
**new title:** authorizing the commissioner of insurance and the commissioner of banking to order the payment of restitution to individuals harmed by unfair or deceptive practices of licensees.  
am 443-445, psd 501, nonconc S am, conf 747, 831, rep adop 884, 886, enr 902 (Chapter 210)
- HB 1283**, relative to wetlands permits. (Campbell, Straf 68: Resources, Recreation and Development)  
K 322-323
- HB 1284**, relative to setbacks from wetlands. (Campbell, Straf 68: Resources, Recreation and Development)  
K 323
- HB 1285**, restricting owners of land in current use and land acquired with public funds from posting for no hunting. (L. Christiansen, Hills 66: Environment and Agriculture)  
K 217
- HB 1286**, relative to oaths of office. (L. Christiansen, Hills 66; et al: Judiciary)  
K 278
- HB 1287**, establishing a study committee to review insurance statutes and rules to assure conformity with the mission statement published by the insurance department. (L. Christiansen, Hills 66: Commerce)  
rem 205, K 230
- HB 1288-FN**, reducing the membership of the fish and game commission. (L. Christiansen, Hills 66: Fish and Game)  
K 207
- HB 1289-FN-L**, relative to drug-free senior housing zones. (Crane, Hills 59; et al: Criminal Justice and Public Safety)  
K 401
- HB 1290**, establishing a time limit on the receipt of Temporary Assistance for Needy Families. (Crane, Hills 59; et al: Health, Human Services and Elderly Affairs)  
**new title:** establishing a study committee to examine time limits on eligibility for Temporary Assistance for Needy Families.  
am 208-209, psd 230, S LT 926

- HB 1291-L**, relative to elderly and handicapped priority low-income housing. (Crane, Hills 59; et al: Municipal and County Government)  
K 368
- HB 1292**, apportioning state representative districts. (Hopper, Hills 48; et al: Election Law)  
am (4RCs) 291-316, psd 334, S conc 522, enr 523 (Chapter 18)
- HB 1293**, relative to emission control equipment for certain vehicles. (Artz, Hills 64; et al: Science, Technology and Energy)  
**new title:** relative to emission control equipment for certain vehicles and relative to unfair motor vehicle insurance trade practices.  
am 424-425, psd 437, nonconc S am, conf 580, 831, rep adop 884, 886, enr am 904, enr 906 (Chapter 245)
- HB 1294**, establishing a committee to study the effect of the federal reauthorization of the Temporary Aid to Needy Families Program and its effect on the state of New Hampshire. (MacKay, Merr 39; et al: Health, Human Services and Elderly Affairs)  
K 209
- HB 1295**, relative to the right-to-know law. (Cady, Rock 73; et al: Judiciary)  
**new title:** relative to certain court records.  
**2<sup>nd</sup> new title:** relative to certain court records and exempting certain documents from the right-to-know law.  
am 410, psd 437, nonconc S am, conf 837, 845, rep adop 884, 886, enr am 904, enr 906 (Chapter 246)
- HB 1296**, establishing a committee to study the transfer of authority for dairy product inspection to the department of agriculture, markets, and food and to study revising and updating RSA 184. (Gilman, Graf 9; et al: Environment and Agriculture)  
**new title:** establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food.  
**2<sup>nd</sup> new title:** establishing a committee to study the authority to inspect food by the department of health and human services and the department of agriculture, markets, and food, and relative to food service licensure.  
am 360, psd 436, nonconc S am, conf 580, 831, rep adop 884, 886, enr 902, appointments 929 (Chapter 211)
- HB 1297**, relative to credit for American sign language and transliteration as a foreign language. (Gilman, Graf 9; et al: Education)  
K 233
- HB 1298**, relative to dispute resolution within the context of public employee labor relations. (Gilman, Graf 9: Labor, Industrial and Rehabilitative Services)  
**new title:** establishing a committee to study local dispute resolution for public employee labor relations.  
am 278-279, psd 334, conc S am 785, enr 841, appointments 929 (Chapter 134)
- HB 1299**, relative to the removal of the tax collector or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position. (Giuda, Graf 13; et al: Municipal and County Government)  
**new title:** relative to the removal of the tax collector, treasurer, or town clerk, and required notice to the board of selectmen by a candidate for office if the candidate has ever been removed from a bonded position.  
rem 271, am 331-333, psd 334, conc S am 808, enr am 846, enr 848 (Chapter 184)
- HB 1300**, not introduced

- HB 1301**, relative to extensions to the intent to cut. (Dickinson, Carr 4; et al: Municipal and County Government)  
**new title:** relative to extensions to the intent to cut and relative to the care, maintenance and repair of the law enforcement memorial.  
am 368-370, psd 436, conc S am 579, enr 700 (Chapter 81)
- HB 1302**, relative to rental contracts or leases entered into by individuals who are subsequently called to service in the armed forces. (Dickinson, Carr 4; et al: Judiciary)  
am 365-366, psd 436, conc S am 704, enr 845 (Chapter 135)
- HB 1303-FN**, creating a charity bingo and lucky 7 ticket review and advisory commission and establishing a multi-hall linked bingo pilot program. (Dickinson, Carr 4; et al: Ways and Means)  
K 240
- HB 1304-L**, relative to notice for zoning rehearings. (Ahern, Belk 29: Municipal and County Government)  
K 282
- HB 1305**, establishing a committee to study certain high interest loans. (Kurk, Hills 48; et al: Commerce)  
K 346
- HB 1306**, relative to collective bargaining by state employees. (Wendelboe, Belk 29: Executive Departments and Administration)  
K 361
- 1307-FN**, relative to review of final proposed rules under the administrative procedures act. (Bruno, Hills 45: Legislative Administration)  
K 279
- HB 1308-FN**, relative to lobbying activities by state employees. (Bruno, Hills 45: Legislative Administration)  
am 279-280, psd 234, S conc 628, enr 700 (Chapter 82)
- HB 1309**, relative to noise pollution from shooting ranges. (Bruno, Hills 45: Judiciary)  
am (2RCs) 410-417, psd 437, conc S am 579, enr 700 (Chapter 83)
- HB 1310**, relative to licenses to sell firearms. (Bruno, Hills 45: Criminal Justice and Public Safety)  
K 447
- HB 1311-FN**, relative to the insurance premium tax. (Camm, Rock 79: Ways and Means)  
**new title:** establishing a committee to study decreasing the insurance premium tax.  
am 215, psd 231, conc S am 579, enr 700, appointments 930 (Chapter 84)
- HB 1312**, relative to the court's discretion to extend child support obligations. (Bickford, Straf 68: Children and Family Law)  
am 440-441, psd 501, conc S am 631, enr am 832, enr 845 (Chapter 136)
- HB 1313**, relative to establishing a spring season for bear baiting. (Goyette, Hills 66; et al: Fish and Game)  
K 277
- HB 1314**, relative to the taking of deer by crossbow. (Goyette, Hills 66; et al: Fish and Game)  
K 277
- HB 1315**, relative to the disclosure of the identity of the person filing a report of suspected child abuse. (Boyce, Belk 31; et al: Children and Family Law)  
K 288

- HB 1316-FN-A**, relative to the computation of tax on certain telecommunications services under the communications services tax. (Major, Rock 79; et al: Ways and Means)  
**new title:** relative to the computation of tax on certain telecommunications services under the communications services tax, and establishing a committee to study the feasibility of unbundling communications services charges.  
 am 455-456, psd 501, S conc 701, enr 829, appointments 930 (Chapter 111)
- HB 1317-FN-L**, requiring cities and towns to complete valuations of property and relative to the implementation of property tax hardship relief provisions. (DiFruscia, Rock 76; et al: Municipal and County Government)  
 K 370
- HB 1318-FN-A**, relative to a senior care provider program and making an appropriation therefor. (Campbell, Straf 68: Health, Human Services and Elderly Affairs)  
 K 218
- HB 1319**, relative to the percentage of ownership in physician hospital organizations. (Bruno, Hills 45: Commerce)  
 study 345
- HB 1320**, making changes in the laws relative to retail installment sales, first mortgage bankers and brokers, mortgage loan servicers, second mortgage home loans, and the regulation of small loans. (Kopka, Hills 63: Commerce)  
 am 345-347, psd 436, S conc 628, enr am 853-836, enr 847 (Chapter 139)
- HB 1321-FN**, relative to claims before the state commission on human rights. (Rogers Johnson, Rock 83: Judiciary)  
 K 366
- HB 1322**, relative to the rules for the operation and regulation of supported residential care facilities. (Elliott, Hills 42: Health, Human Services and Elderly Affairs)  
 K 209
- HB 1323**, relative to the rules for the operation and regulation of residential care facilities. (Elliott, Hills 42: Health, Human Services and Elderly Affairs)  
 K 209-210
- HB 1324-FN**, authorizing the position of clerk of the board of manufactured housing. (Letourneau, Rock 77; et al: Executive Departments and Administration)  
 Finance 235, K 453
- HB 1325-FN-A**, relative to the E-Z Pass toll system. (Leber, Merr 35: Public Works and Highways)  
**new title:** relative to additional uses of the E-Z Pass system.  
 am 237-238, psd 267, S conc 439, enr 523 (Chapter 19)
- HB 1326**, establishing a study committee to examine the classification of consumer and display fireworks. (L. Christiansen, Hills 66: Criminal Justice and Public Safety)  
**new title:** relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks.  
**2<sup>nd</sup> new title:** relative to the requirements for the sale of permissible fireworks and prohibiting the retail sale of certain fireworks and establishing a study committee to examine the classification of consumer and display fireworks and  
 psd 447, 501, nonconc S am, conf 785, 833, rep adop 884, 886, enr am 904, enr 906 appointments 930, committee amended 928 (Chapter 247)
- HB 1327-FN**, relative to allowing persons to be bonded for search and rescue costs in hiking and climbing in New Hampshire. (L. Christiansen, Hills 66: Fish and Game)  
 K 207



- HB 1328**, requiring the development of a plan for the elimination of county government by the year 2011. (Buckley, Hills 56: Municipal and County Government)  
rem 342, SO 436, K (RC) 504-506
- HB 1329**, relative to the length of time consumer credit reporting agencies retain individual credit information. (Lawrence, Hills 66: Commerce)  
am 357, psd 436, S conc 628, enr 700 (Chapter 85)
- HB 1330**, relative to the investigation of disputed credit reporting items by consumer credit reporting agencies. (Lawrence, Hills 66: Commerce)  
K 357
- HB 1331**, allowing recipients of the National Defense Service Medal to be eligible for the veterans' property tax credit. (Lawrence, Hills 66: Municipal and County Government)  
K 282
- HB 1332**, relative to child support in cases of shared custody. (Lawrence, Hills 66: Children and Family Law)  
K 206
- HB 1333-L**, extending the veterans' property tax credit to all honorably discharged veterans. (Lawrence, Hills 66: Municipal and County Government)  
K 282
- HB 1334**, relative to retention of records of fish and game law violations by the fish and game department. (R. L'Heureux, Hills 58; et al: Fish and Game)  
psd 207, 230, S conc 574, enr 527 (Chapter 32)
- HB 1335-L**, relative to workers' compensation requirements for out-of-state employers doing business in New Hampshire. (Gilman, Graf 9: Labor, Industrial and Rehabilitative Services)  
**new title:** establishing a commission to examine the workers' compensation system in New Hampshire.  
am 366-367, psd 436, nonconc S am, conf 837, 845, clerk's note 926, (not signed off)
- HB 1336**, relative to the procedures for the legislative ethics committee. (Jasper, Hills 66; et al: Legislative Administration)  
am 235-236, psd 267, S conc 629, enr 700, duties and appointments amended 928 (Chapter 86)
- HB 1337-FN**, prohibiting any person convicted of an offense against a child from purchasing a residence or entering a rental or lease agreement for rental property in the vicinity of a school. (Itse, Rock 80: Criminal Justice and Public Safety)  
K 233
- HB 1338**, establishing Patriots Day in New Hampshire. (Itse, Rock 80; et al: Executive Departments and Administration)  
K 235
- HB 1339-FN-A-L**, relative to distribution of tobacco settlement funds. (Barry, Hills 55: Finance)  
K (RC) 470-473
- HB 1340-FN**, relative to the Informed Consent for Abortion Act. (Hagan, Hills 50; et al: Judiciary)  
(RC) K 477-483
- HB 1341-FN**, relative to prohibited computer practices. (Letourneau, Rock 77; et al: Criminal Justice and Public Safety)  
study 447
- HB 1342-FN-A-L**, establishing a new system of coinage for the state. (McElroy, Hills 61; et al: Commerce)  
rem 232, K 264

- HB 1343-FN**, making it a crime to cause the death of a fetus as a result of committing a violent act against a pregnant woman. (Ahern, Belk 29; et al: Criminal Justice and Public Safety)  
K 448
- HB 1344-FN-A**, allowing a deduction against the business profits tax for employer-paid health insurance premiums. (Corbin, Rock 79; et al: Ways and Means)  
K 215-216
- HB 1345-FN-L**, establishing an education scholarship fund. (Campbell, Straf 68: Education)  
study 233
- HB 1346**, relative to income qualification in the elderly property tax exemption. (Putnam, Rock 79: Municipal and County Government)  
rem 271, K 333
- HB 1347-FN**, implementing a “good time” sentence reduction system for inmates in the state prison system. (Derby, Carr 7; et al: Criminal Justice and Public Safety)  
K 448
- HB 1348-FN**, relative to registration of business organizations. (Francoeur, Rock 85; et al: Commerce)  
am 445-446, psd 501, nonconc S am, conf 632, 832, rep adop 884, 886, enr am 904-905, enr 906 (Chapter 248)
- HB 1349-FN-L**, relative to medical parole. (Elliott, Hills 42; et al: Criminal Justice and Public Safety)  
study 448
- HB 1350**, not introduced
- HB 1351-FN**, relative to penalties for acts committed during a riot. (Easson, Straf 68; et al: Criminal Justice and Public Safety)  
K 448
- HB 1352-FN**, requiring school districts to recommend daily physical activity to pupils. (French, Merr 34; et al: Education)  
am 288, psd 334, S conc & enr 574 (Chapter 33)
- HB 1353-FN**, mandating open enrollment schools statewide. (Campbell, Straf 68: Education)  
K (3RCs) 243-254
- HB 1354-FN**, relative to certain tolls on the Everett Turnpike. (Greenberg, Hills 50: Public Works and Highways)  
K 211
- HB 1355**, changing the name of the sweepstakes commission to the lottery commission. (Weyler, Rock 79; et al: Executive Departments and Administration)  
psd 276, 334, conc S am 579, enr am 701, enr 747 (Chapter 97)
- HB 1356-FN-A-L**, assessing a fee on water withdrawn for commercial bottling purposes from water supply sources in the state. (M. Carter, Hills 44; et al: Ways and Means)  
K 216
- HB 1357**, relative to cluster zoning and the village plan alternative. (Ahern, Belk 29; et al: Municipal and County Government)  
K 282
- HB 1358-FN**, requiring municipal auditors to be bonded, and relative to audits within political subdivisions. (Marple, Merr 37; et al: Municipal and County Government)  
K 282
- HB 1359-FN-L**, relative to notice requirements for public hearings on certain zoning changes. (Scott, Straf 71; et al: Municipal and County Government)  
K 283

- HB 1360-FN**, including “unborn child” in the definition of “another” for the purpose of capital murder, first and second degree murder, manslaughter, and negligent homicide. (Souza, Hills 51; et al: Criminal Justice and Public Safety)  
SO 459, study (RC) 516-519
- HB 1361**, relative to sentences for certain offenses committed on or near a public college or university campus. (M. Smith, Straf 72; et al: Criminal Justice and Public Safety)  
am 448-449, psd 501, S conc 629, enr 700 (Chapter 87)
- HB 1362**, relative to state representative districts in Grafton county. (Alger, Graf 14; et al: Election Law)  
K 276
- HB 1363**, establishing a policy for naming state highways, bridges, and buildings. (Cloutier, Sull 22; et al: Public Works and Highways)  
psd 238, 267, nonconc S am 579
- HB 1364-FN**, establishing a statutory joint committee to review and propose changes to state unclassified officers’ salaries. (Dodge, Rock 80; et al: Executive Departments and Administration)  
am 451, psd 501, S nonconc 629
- HB 1365-FN**, relative to protecting hearing ear dogs, guide dogs, and service dogs. (Fish, Ches 25; et al: Health, Human Services and Elderly Affairs)  
**new title:** relative to hearing ear dogs, guide dogs, and service dogs.  
am & Criminal Justice 218-219, study 449
- HB 1366**, relative to penalties for violation of protective orders. (DiFruscia, Rock 76; et al: Criminal Justice and Public Safety)  
K 273
- HB 1367**, permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings. (Hopper, Hills 48; et al: Criminal Justice and Public Safety)  
am 449, psd 501, nonconc S am, conf 747, 832, rep adop 885, 886, (unable to agree)
- HB 1368**, establishing a committee to study means of interdicting and preventing the distribution of controlled substances in New Hampshire. (Hinkle, Hills 58; et al: Criminal Justice and Public Safety)  
K 273
- HB 1369**, relative to state representative district 67. (Heon, Straf 67; et al: Election Law)  
K 276
- HB 1370**, establishing a committee to study property tax relief for low-income and elderly persons. (Gibson, Hills 58; et al: Ways and Means)  
**new title:** establishing a committee to study property tax relief.  
am 216, psd 231, conc S am 579, enr 700, appointments 930 (Chapter 88)
- HB 1371-FN**, prohibiting the sale or possession of pocket knives in safe school zones. (Heon, Straf 67; et al: Criminal Justice and Public Safety)  
K 359
- HB 1372**, defining certain terms relating to military service. (Heon, Straf 67; et al: State-Federal Relations and Veterans Affairs)  
am 375, psd 437, S conc 629, enr 700 (Chapter 89)
- HB 1373**, relative to Grafton county representative districts. (Gilman, Graf 9: Election Law)  
K 276
- HB 1374**, relative to lightning protection systems. (Giuda, Graf 13; et al: Commerce)  
am 357-358, psd 436, S conc 629, enr 700 (Chapter 90)

- HB 1375**, relative to powers of conservation commissions. (Spang, Straf 72; et al: Municipal and County Government)  
K 420-421
- HB 1376**, relative to agency fees assessed pursuant to collective bargaining agreements and representation of certain employees in grievances. (Giuda, Graf 13; et al: Labor, Industrial and Rehabilitative Services)  
**new title:** relative to agency fees assessed pursuant to public employer collective bargaining agreements.  
rem 271, am (RC) 328-331, psd 334, S LT 926
- HB 1377-L**, relative to the repeal of municipal ordinances by petition. (Scott, Straf 71; et al: Municipal and County Government)  
K 283
- HB 1378-FN-A**, relative to New Hampshire service medals for veterans of World War II, the Korean Conflict, and the Vietnam Conflict and making an appropriation therefor. (Pepino, Hills 51; et al: State-Federal Relations and Veterans Affairs)  
**new title:** relative to New Hampshire service medals for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor.  
**2<sup>nd</sup> new title:** relative to New Hampshire service awards for veterans of World War II, the Korean War, and the Vietnam War and making an appropriation therefor; and relative to tuition waivers and room and board scholarships at state educational institutions for children of certain firefighters and police officers who died while in performance of their duties.  
am 213-214, psd 231, conc S am 836, enr am 899-900, enr 906 (Chapter 249)
- HB 1379**, relative to boating on certain lakes and ponds by disabled persons. (Patten, Carr 7; et al: Resources, Recreation and Development)  
K 285
- HB 1380-FN**, establishing a criminal penalty for unauthorized video surveillance. (O'Brien, Hills 43; et al: Criminal Justice and Public Safety)  
**new title:** relative to unauthorized video surveillance.  
am 450, psd 501, nonconc S am, conf 632, 831, rep adop 885, 886, enr 902 (Chapter 212)
- HB 1381**, relative to the rights of citizens. (Marple, Merr 37; et al: Judiciary)  
K 211
- HB 1382**, relative to liens filed with public servants. (Marple, Merr 37; et al: Commerce)  
K 207
- HB 1383**, relative to full faith and credit in judicial proceedings. (Marple, Merr 37; et al: Judiciary)  
K 211
- HB 1384**, relative to challenges to statutes. (Marple, Merr 37; et al: Judiciary)  
K 211
- HB 1385**, establishing the protection of liberty act. (Itse, Rock 80; et al: Criminal Justice and Public Safety)  
K 273-274
- HB 1386**, relative to participation by nonresident taxpayers in town meetings. (Ahern, Belk 29; Municipal and County Government)  
K (RC) 259-261
- HB 1387-FN-A**, reducing the rate of the business enterprise tax. (Brady, Coos 2; et al: Ways and Means)  
study 216
- HB 1388-FN-A**, reducing the rate of the business profits tax. (Brady, Coos 2; et al: Ways and Means)  
study 217

- HB 1389**, relative to appearances and representation in courts. (Ingbreton, Graf 13; et al: Judiciary)  
K 235
- HB 1390**, relative to MTBE. (Owen, Merr 34; et al: Science, Technology and Energy)  
study 375
- HB 1391-FN**, relative to motor vehicle violations. (Kennedy, Merr 34; et al: Criminal Justice and Public Safety)  
study 274
- HB 1392**, relative to preapplication review of projects submitted to a local planning board. (Cady, Rock. 73; et al: Municipal and County Government)  
K 283
- HB 1393**, relative to the appeal of the lower court's decision in a child protection case. (Rowe, Hills. 47: Children and Family Law)  
am (RC) 456-459, psd 502, S nonconc 577
- HB 1394**, relative to de novo appeals in certain criminal proceedings. (Rowe, Hills. 47: Judiciary)  
am 454, psd 501, S nonconc 701
- HB 1395**, relative to representation by the county attorney in county matters. (Slocum, Hills 47; et al: Municipal and County Government)  
K 370
- HB 1396**, relative to implementing a bottle deposit program. (Owen, Merr 34; et al: Commerce)  
K 358
- HB 1397**, relative to youth suicide prevention. (Dalrymple, Rock 76; et al: Health, Human Services and Elderly Affairs)  
am 210, psd 230, S conc 574, enr 527, duties amended 928 (Chapter 34)
- HB 1398-FN-L**, relative to relief and maintenance provided to certain non-residents. (Brundige, Hills 58; et al: Municipal and County Government)  
K 421
- HB 1399-FN-A**, establishing the telecommunications planning and development fund. (Thomas, Belk 31: Science, Technology and Energy)  
Finance 239, psd 453, 501, conc S am 836, enr 848 (Chapter 185)
- HB 1400**, not introduced
- HB 1401-FN**, limiting the use of traffic signal preemption devices. (Bridle, Rock 85; et al: Transportation)  
**new title:** limiting the use of traffic signal preemption devices, establishing a commission to study railroad matching funds, authorizing an expenditure for a certain feasibility study, and relative to landowner permission for OHRV operation and loading and unloading OHRVs on highways.  
am 287, psd 334, nonconc S am, conf 786, 832, rep adop 885, 887, enr am 905, enr 906, appointments 930 (Chapter 250)
- HB 1402-FN-A**, requiring a discount to wholesalers on cash purchases of tobacco tax stamps. (Weyler, Rock 79: Ways and Means)  
study 217
- HB 1403**, extending the reporting dates of certain study committees. (Francoeur, Rock 85: Legislative Administration)  
am 236, psd 267, S conc 439, enr 523, report date extended 927 (Chapter 20)
- HB 1404**, prohibiting the release of information by university of New Hampshire officials in cases where students have contact with university of New Hampshire police. (Kerns, Hills 57: Executive Departments and Administration)  
K 276-277

- HB 1405-L**, relative to requiring municipalities to use official ballot voting procedures for bond issues. (Dodge, Rock 80; et al: Municipal and County Government)  
rem 342, SO 436,K (RC) 506-509
- HB 1406**, relative to the regulation of physician assistants. (Fraser, Merr 37: Executive Departments and Administration)  
K 451
- HB 1407**, granting limited law enforcement authority to certain federal officers stationed in New Hampshire. (Craig, Hills 50; et al: Criminal Justice and Public Safety)  
study 274
- HB 1408-FN**, relative to reporting requirements for certain nonprofit organizations, including health care charitable trusts. (Weyler, Rock 79; et al: Commerce)  
am 358, psd 436, nonconc S am, conf 580, 832, rep adop 885, 887, enr 902 (Chapter 213)
- HB 1409**, relative to the disclosure of protected health information by court ordered service providers. (Gilman, Graf 9; et al: Commerce)  
study 446
- HB 1410**, relative to terminating parental rights. (Gilman, Graf 9; et al: Children and Family Law)  
**new title:** relative to the release of information to persons receiving a child for placement.  
**2<sup>nd</sup> new title:** relative to the release of information to persons receiving a child for placement and relative to the department of health and human service's disclosure of information regarding the death of a child from abuse and neglect.  
am 272, psd 334, conc S am 579, enr am 701, enr 747 (Chapter 98)
- HB 1411-FN-A**, relative to funding state science laboratories and making an appropriation therefor. (Weyler, Rock 79; et al: Public Works and Highways)  
**new title:** establishing a committee to study funding sources for the state laboratories and extending the appropriation to the department of corrections for the prison automation system.  
am & Finance 262-263, am 453-454, psd 501, nonconc S am, conf 786, 832, rep adopt S 885, rep rej 887
- HB 1412**, relative to college and university recognition of student organizations and athletic teams. (Jasper, Hills 66: Education)  
K 450
- HB 1413**, relative to the creation of mandatory screening panels for medical injury claims. (Francoeur, Rock 85; et al: Judiciary)  
**new title:** relative to the creation of mandatory panels for medical injury claims and to the testimony of expert witnesses and establishing a committee to study medical malpractice insurance rates and mandatory panels for medical injury claims.  
am (2RCs) 483-501, psd 502, nonconc S am, conf 837, 845, clerk's note 926, (not signed off)
- HB 1414**, establishing a commission to study issues regarding the women's prison facility. (Welch, Rock 79; et al: Criminal Justice and Public Safety)  
psd 207, 230, conc S am 574, enr 628, appointments 930 (Chapter 67)
- HB 1415**, relative to de facto child custody. (Cady, Rock 73; et al: Children and Family Law)  
K 441
- HB 1416-FN**, relative to a permanent property tax exemption for wooden poles and conduits. (Hess, Merr 37; et al: Ways and Means)  
**new title:** extending the property tax exemption for wooden poles and conduits and establishing a committee to study issues related to the exemption.  
am (RC) 512-514, psd 521, S conc 574, enr 527, appointments 930 (Chapter 35)

- HB 1417**, relative to examination of persons called as jurors in civil cases. (J. Pratt, Ches 24; et al: Judiciary)  
psd 366, 436, S conc 577, enr 628 (Chapter 48)
- HB 1418-FN**, establishing a procedure for state employees to report suspected improper governmental activity. (Gilman, Graf 9; et al: Executive Departments and Administration)  
K 361
- HB 1419**, relative to the dispensing of noncontrolled prescription drugs by registered nurses in certain facilities under contract with the department of health and human services. (Gorman, Hills 62; et al: Executive Departments and Administration)  
rem 342, SO 436, am 461, psd 502, S conc 577, enr 628 (Chapter 49)

### SUPPLEMENTAL HOUSE BILLS INTRODUCED IN 2004 SESSION

- HB 1420**, relative to requirements of the fish and game department before a coastal area may be closed to fishing of marine species. (Morris, Rock 84; et al: Fish and Game)  
67, study 277
- HB 1421-FN**, relative to solid waste incineration. (Kennedy, Merr 34; et al: Science, Technology and Energy)  
67, study (RC) 425-428
- HB 1422**, relative to qualifications for persons who negotiate on behalf of the state. (Burling, Sull 19; et al: Executive Departments and Administration)  
160, am 361, psd 436, conc S am 704, enr 841 (Chapter 137)
- HB 1423-FN**, relative to reimbursement of business travel expenses for judges and court reporters and stenographers. (R. Wheeler, Hills 48: Finance)  
**new title:** relative to reimbursement of travel expenses for judges.  
268, am 473-474, psd 502, S conc 577, enr am 629-630, enr 700 (Chapter 91)
- HB 1424-FN-A**, establishing a pharmaceutical commission and making an appropriation therefor. (Burling, Sull 19; et al: Executive Departments and Administration)  
**new title:** establishing a pharmaceutical study commission to study direct purchasing of prescription medication by the state.  
269, am (RC) 461-464, psd 502, S LT 926
- HB 1425**, relative to food safety in restaurants. (Pilliod, Belk 31; et al: Executive Departments and Administration)  
269, rem 440, LT 519-520, 926
- HB 1426-FN**, relative to testing for the human immunodeficiency virus. (Pilliod, Belk 31; et al: Health, Human Services and Elderly Affairs)  
269, am 364-365, psd 436, S conc 574, enr 527 (Chapter 36)
- HB 1427**, continuing the New Hampshire National Guard Educational Assistance Act. (Coughlin, Hills 45; et al: State-Federal Relations and Veterans Affairs)  
338, K 454
- HB 1428-FN**, relative to the administration of the medical assistance program for home care for children with severe disabilities and establishing a commission to review the medical assistance program for home care for children with severe disabilities. (Burling, Sull 19; et al: Finance)  
**new title:** relative to the administration of the medical assistance program for home care for children with severe disabilities; establishing a commission to review the medical assistance program for home care for children with severe disabilities; and relative to the use of standardized health statements and renewals of certain insurance policies.  
338, rules suspended 437, am 550-552, psd 576, nonconc S am, conf 837, 845, rep adop 885, 887, enr am 905, enr 906, appointments 930-931 (Chapter 251)

**HB 1429 through HB 2003**, not introduced

**HB 2004-FN-L**, relative to the state 10-year transportation improvement program. (E. Smith, Ches 26: Public Works and Highways)

**new title**, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds.

203, am 421-424, psd 437, nonconc S am, conf 838, 845, conferee change 847, rep adop S 885, rep rej, rules suspended & new conf 887, 889, 897, rep adop 898, enr am 905-906, enr 906, veto overridden (RC) 917-920, 925, appointments 931 (Chapter 262)

### (CLERK'S NOTE)

House Rules required all House legislation to be introduced in the first year of the 2003-2004 biennium. A supplemental filing period for legislation was held April 10 – 24, 2003. The introduction deadline date of June 24, 2003 was suspended. House action on supplemental legislation was held over to the 2004 legislative session.

The following House Joint Resolutions are included in this category:

### 2004 SESSION

#### HOUSE JOINT RESOLUTIONS INTRODUCED IN 2003 SESSION

**HJR 20**, supporting President Bush's hydrogen fuel initiative. (Kerns, Hills 57: Science, Technology and Energy)  
K 239

**HJR 21**, urging New Hampshire businesses to consider alternative fuel options to oil. (Kerns, Hills 57: Science, Technology and Energy)  
K 239

**HJR 22**, concerning foliage protection. (Kerns, Hills 57: Resources, Recreation and Development)  
K 285

**HJR 23**, relative to the process for choosing United States Senators. (Itse, Rock 80; et al: Election Law)  
K 276

**HJR 24**, concerning misdemeanors and probable cause. (Kerns, Hills 57: Criminal Justice and Public Safety)  
K 233

### 2004 SESSION

#### HOUSE JOINT RESOLUTIONS INTRODUCED IN 2004 SESSION

**HJR 25**, requested by the joint legislative committee on administrative rules relative to a certain rule proposed by the department of transportation. (Patten, Carr 7; et al: Executive Departments and Administration.)  
439, rules suspended 501, psd 535, 575, S conc 829, enr am 846, enr 848, appointments 931 (Chapter 179)

**HJR 26**, prohibiting the liquor commission from adopting proposed administrative rule Liq 404.05(d)(3). (Patten, Carr 7; et al: Executive Departments and Administration)  
439, rules suspended 501, psd 535, 575, S conc 829, enr 841 (Chapter 127)

### 2004 SESSION

#### 2003 HOUSE CONCURRENT RESOLUTIONS RETAINED IN COMMITTEE

**HCR 10**, recognizing New Hampshire's ratification of the original Thirteenth Amendment to the United States Constitution. (Marple, Merr 37; et al: State-Federal Relations and Veterans Affairs)  
K 202



**HCR 11**, relative to state and federal government relations. (McElroy, Hills 61; et al: State-Federal Relations and Veterans Affairs)  
K 202-203

**HCR 17**, urging the posthumous promotion of Colonel Edward Ephraim Cross to brigadier general. (Leone, Sull 21; et al: State-Federal Relations and Veterans Affairs)  
adop 56, 66, S conc 574

### (CLERK'S NOTE)

House Rules required all House legislation to be introduced in the first year of the 2003-2004 biennium. A supplemental filing period for legislation was held April 10 – 24, 2003. The introduction deadline date of June 24, 2003 was suspended. House action on supplemental legislation was held over to the 2004 legislative session.

The following House Concurrent Resolutions are included in this category:

### 2004 SESSION

#### HOUSE CONCURRENT RESOLUTIONS INTRODUCED IN 2003

**HCR 20**, affirming civil rights and liberties and opposing federal measures that infringe on such rights and liberties. (Pelletier, Straf 71; et al: State-Federal Relations and Veterans Affairs)  
K 375

**HCR 21**, urging the reduction of the federal gasoline and diesel fuel excise tax. (Buhlman, Hills 66; et al: State-Federal Relations and Veterans Affairs)  
K 376

**HCR 22**, urging Congress to withdraw the United States from the United Nations. (Albert, Straf 67; et al: State-Federal Relations and Veterans Affairs)  
K (2RCs) 431-436

**HCR 23**, on non-citizens during times of war. (Kerns, Hills 57: Criminal Justice and Public Safety)  
K 233

**HCR 24**, urging the state to include individual development accounts in the Temporary Aid to Needy Families (TANF) program. (P. Sullivan, Hills 50: Commerce)  
K 358-359

**HCR 25**, declaring that the directives of the judicial branch in the Claremont cases that the legislative and executive branches define an “adequate education,” adopt “standards of accountability,” and “guarantee adequate funding” of a public education are not binding on the legislative and executive branches. (Pepino, Hills 51; Giuda, Graf 13; Soltani, Merr 37; Barnes, Dist 17; Johnson, Dist 2; Kenney, Dist 3: Ways and Means)  
K (RC) 326-328

### (CLERK'S NOTE)

House Rules required all House legislation to be introduced in the first year of the 2003-2004 biennium. A supplemental filing period for legislation was held April 10 – 24, 2003. The introduction deadline date of June 24, 2003 was suspended. House action on supplemental legislation was held over to the 2004 legislative session.

The following House Resolutions are included in this category:

### 2004 SESSION

#### HOUSE RESOLUTIONS INTRODUCED IN 2003 SESSION

**HR 20**, supporting Taiwan's participation in the World Health Organization. (Hess, Merr 37; et al: State-Federal Relations and Veterans Affairs)  
adop 214, 231

**HR 21**, reaffirming the death penalty. (Kerns, Hills 57: Criminal Justice and Public Safety)  
K 359

**HR 22**, relative to fathers' rights. (Kerns, Hills 57; et al: Children and Family Law)  
K 206

**HR 23**, urging the President and Congress to amend federal selective service and immigration laws to grant the right of citizenship to all immigrants honorably discharged from United States military service. (P. Sullivan, Hills 50, Crane, Hills 59: State-Federal Relations and Veterans Affairs)  
adop 214, 231

**HR 24**, opposing the exploration for oil in the Arctic National Wildlife Refuge. (P. Sullivan, Hills 50: State-Federal Relations and Veterans Affairs)  
**new title:** encouraging a comprehensive energy plan.  
rem 440, am 520-521, adop 521

## 2004 SESSION

### HOUSE RESOLUTIONS INTRODUCED IN 2004 SESSION

**HR 25**, memorializing State Representative Robert H. Milligan of Merrimack.  
intro & adop 341

**HR 26**, memorializing State Representative Paul R. Hatch of Wolfeboro.  
intro & adop 849-850

**HR 27**, affirming revenue estimates for fiscal years 2004 and 2005. (Major, Rock 79)  
intro & adop 890-893

**HR 28**, memorializing State Representative Lionel E. Johnson of Manchester.  
intro & adop 908

## 2004 SESSION

### 2003 SENATE BILLS RETAINED IN COMMITTEE BY HOUSE OR RE-REFERRED BY SENATE

**SB 19-FN**, relative to notification of groundwater contamination and requiring a certain report from the department of environmental services.  
am 195-196, psd 203, S conc 702, enr 829 (Chapter 101)

**SB 35**, relative to the transfer and exchange of certain state-owned land for certain land owned by the Manchester water works.  
K 55

**SB 61**, relative to collective bargaining units at charter schools and charter conversion schools, and relative to leaves of absence for teachers to accept employment at a charter school. (Education)  
231, am 736, psd 784, S nonconc, conf, 839, clerk's note 926 (not signed off)

**SB 74-FN-A-L**, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs.  
am & K (RC) 182-186

**SB 78-FN**, establishing the New Hampshire health care information council.  
K 29

**SB 95-FN-L**, relative to the development of workforce housing within municipalities.  
K (RC) 186-192

**SB 99**, relative to high cost mortgage loans.  
**new title:** relative to compliance with federal law in the making of first and second mortgage loans.  
am 10, psd 66, S conc 829, enr 847 (Chapter 140)

**SB 109**, adopting the model Drug Dealer Liability Act. (Judiciary)

**new title:** adopting the model Drug Dealer Liability Act and permitting the parents or legal guardian of a sexual assault victim to remain with the victim during the legal proceedings.

**2<sup>nd</sup> new title:** adopting the model Drug Dealer Liability Act.

160, SO 783, am (RC) 786-794, psd 828, S nonconc, conf 840, conferee changes 847, rep adop 856-857, 898, enr am 901, enr 906 (Chapter 252)

**SB 126-FN-A**, exempting transfers of title between spouses from the real estate transfer tax. (Ways and Means)

522, K 549

**SB 128-FN**, transferring the bureau of vital records and health statistics from the department of health and human services to the department of state.

**new title:** relative to the advisory committee assisting the secretary of state in administering the vital records improvement fund.

am 25-26, psd 66, S conc 702, enr 829 (Chapter 102)

**SB 132-FN-A**, extending the Parents as Teachers program in Sullivan county and making an appropriation therefor.

K 27

**SB 153**, adopting the nurse licensure compact. (Executive Departments and Administration)

231, rem 704, SO 783, am 808, psd 828, S nonconc, conf 839, rep adop 851, 898, enr am 901, enr 906 (Chapter 253)

**SB 159-FN**, relative to milfoil and other exotic aquatic weeds.

SO 203, K 226

**SB 176**, relative to standards for plats recorded in the registry of deeds.

am 47-48, psd 66, S conc 702, enr 829 (Chapter 103)

**SB 199**, revising the nurse practice act.

am 130-149, psd 159, S nonconc, conf, 839, clerk's note 926, (not signed off)

**SB 205-FN**, authorizing the state to accept the title of the dam and dikes at Smith Pond, Enfield, New Hampshire. (Resources, Recreation and Development)

231, study 547

**SB 207**, relative to transactions exempt from the consumer protection act. (Commerce)

**new title:** relative to exemptions from the consumer protection act and the regulation of retail installment sales of motor vehicles.

231, am 527-529, psd 575, S conc 829, enr 847 (Chapter 141)

**SB 215-FN**, relative to the use of prerecorded telephone messages for political advocacy.

K 18

**SB 222-FN-A**, relative to motor vehicle fees.

K 58

## 2004 SESSION

### SENATE BILLS

**SB 301-FN**, relative to liquor licenses. (Commerce)

**new title:** relative to liquor licenses and relative to sales of alcoholic beverages.

268, 580-581, psd 627, S conc 829, enr 847 (Chapter 142)

**SB 302-FN-L**, making technical corrections to the education funding formula. (Finance)

522, SO 760, am (3RCs) & protest 810-828, psd 828, S nonconc, conf 844, conferee change 847, rep adop (RC), appeal & protests 857-868, clerk's note 897, rep adop S 898, enr am & enr 899, remarks 924-925 (Chapter 200)

**SB 303-FN**, eliminating the business profits tax exemption for qualified investment companies and relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. (Ways and Means)

**new title:** relative to the strengthening the requirements for qualified investment company status and the resulting exemption from business taxes, and eliminating the tax-exempt status of qualified investment capital companies.

522, am 616-619, psd 628, S conc 829, enr 847 (Chapter 143)

**SB 311**, relative to civil penalties for unlawful campaign practices. (Election Law)

522, psd 534, 575, enr 628 (Chapter 50)

**SB 312-FN**, establishing a state code of ethics. (Executive Departments and Administration)

337, am 716-718, psd 784, S nonconc, conf 839, rep adop 868-869, 898, enr 902 (Chapter 214)

**SB 314**, relative to access to medical records. (Judiciary)

204, am 633, psd 699, S conc 829, enr 847 (Chapter 144)

**SB 316**, relative to the payment of salaried employees. (Labor, Industrial and Rehabilitative Services)

204, am 693, psd 700, S conc 829, enr 847 (Chapter 145)

**SB 317**, relative to registration of pesticide applicators and rules of the pesticide control board. (Environment and Agriculture)

231, am 360-361, psd 436, S nonconc, conf 839, rep adop 851-852, 898, enr 902 (Chapter 215)

**SB 318**, relative to the applicability of driving while intoxicated prohibitions. (Criminal Justice and Public Safety)

337, K 597-598

**SB 320-FN**, relative to penalties for damaging emergency vehicles. (Criminal Justice and Public Safety)

337, K 598

**SB 324-FN-A-L**, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. (Ways and Means)

**new title:** relative to the real estate transfer tax, the calculation of the commissioner's warrant for the statewide enhanced education tax, and to defining Penacook as a municipality.

268, am & Finance (RC) 619-624, am 720-721, psd 784, S conc 830, enr 847 (Chapter 195)

**SB 325-FN-L**, relative to penalties for a false report to a law enforcement officer. (Criminal Justice and Public Safety)

204, K 529

**SB 329-FN**, relative to the recovery by the retirement system of the overpayment of benefit amounts. (Executive Departments and Administration)

**new title:** relative to the recovery by the retirement system of the overpayment of benefit amounts, relative to payment of medical benefits costs for disabled group II members of the retirement system, and making technical changes to the judicial retirement plan.

270, am & Finance 535-5336, am 721-723, psd 784, S conc 830, enr 847 (Chapter 146)

**SB 330-FN**, relative to creditable service of retirement system members re-employed after qualifying military service. (Executive Departments and Administration)

270, psd 536, 575, enr 628 (Chapter 51)

**SB 332-FN**, relative to tolls for disabled veterans. (Public Works and Highways)

204, K 545

**SB 333-FN**, establishing a unique pupil identification system. (Education)

438, am & Finance 532-533, am 761-763, psd 784, S conc 830, enr 847 (Chapter 147)

- SB 335**, relative to access to birth records. (Children and Family Law)  
438, psd (RC) 687-690, 700, enr 747 (Chapter 99)
- SB 336-L**, relative to certain costs in the development of a high school in the town of Bedford. (Finance)  
337, am 542, rules suspended & psd 549, S conc 577, enr 574 (Chapter 27)
- SB 337**, relative to the regulation of traps by the fish and game department and relative to the liability of trappers for certain injuries to domestic animals. (Fish and Game)  
269, psd 542, 575, enr 628 (Chapter 65)
- SB 338-FN**, relative to the purchase of prior service credit by certain political subdivision employee members. (Executive Departments and Administration)  
**new title:** relative to purchase of prior service credit in the retirement system, and repealing certain provisions permitting additional contributions.  
270, am & Finance 536-538, am 723-724, psd 784, S nonconc, conf 839, rep adop 869-870, 898, enr 902 (Chapter 216)
- SB 339-FN**, relative to the involuntary commitment of certain persons found not competent to stand trial for certain criminal offenses. (Criminal Justice and Public Safety)  
270, K 530
- SB 340**, relative to the release of information on fish stocking by the executive director of fish and game. (Fish and Game)  
338, psd 542, 576, enr 576 (Chapter 37)
- SB 341**, relative to prohibited methods of taking wildlife in certain fish and game laws. (Fish and Game)  
269, K 640
- SB 342-FN**, relative to payment of utility assessments and relative to regulation of electric generation companies. (Science, Technology and Energy)  
**new title:** relative to payment of utility assessments, relative to regulation of electric generation companies, and relative to violations of gas pipeline and liquefied petroleum gas system regulation.  
204, am684-685, psd 700, S conc 830, enr 847 (Chapter 148)
- SB 343**, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. (Resources, Recreation and Development)  
522, rem 527, am (RC) 570-573, psd 576, S nonconc 831
- SB 344**, relative to the use of gifts and donations to the fish and game department and relative to off highway recreational vehicle fees. (Fish and Game)  
204, am 542-543, psd 576, S conc 702, enr am 829, enr 847 (Chapter 149)
- SB 345**, exempting payroll accounts from trustee process. (Commerce)  
270, psd 529, 575, enr 628 (Chapter 52)
- SB 346**, relative to prohibiting the operation of snowmobiles on open water. (Resources, Recreation and Development)  
269, psd 547, 576, enr 628 (Chapter 53)
- SB 347-FN**, relative to financial responsibility and conduct after an OHRV accident. (Criminal Justice and Public Safety)  
438, psd 530, 575, enr 628 (Chapter 54)
- SB 348**, relative to the sale of manufactured housing and the management of manufactured housing parks. (Commerce)  
339, am 633, psd 699, S conc 830, enr 847, committee amended 927 (Chapter 150)
- SB 350**, relative to access by the legislative budget assistant to confidential information maintained by the department of revenue administration. (Legislative Administration)  
269, study 454

- SB 351-FN**, relative to concurrent enrollment at regional vocational education centers. (Education)  
270, am 533-534, psd 575, S conc 702, enr am 829, enr 847 (Chapter 151)
- SB 352-FN-L**, relative to computing school building aid grant amounts. (Education)  
270, Finance 535, psd 724, 784, enr 841 (Chapter 124)
- SB 355**, relative to the regulation and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm and detection systems. (Executive Departments and Administration)  
270, am 538, psd 575, S conc 702, enr am 829, enr 847 (Chapter 152)
- SB 356**, relative to the powers and duties of the community development finance authority. (Executive Departments and Administration)  
438, psd 640, 700, enr 829 (Chapter 104)
- SB 357**, authorizing municipalities to adopt quarterly billing of taxes. (Municipal and County Government)  
523, am 601-602, psd 627, S conc 830, enr 847 (Chapter 153)
- SB 358**, relative to incompatibility of municipal offices. (Municipal and County Government)  
269, psd 545, 576, enr 628 (Chapter 55)
- SB 359**, relative to construction of buildings on certain pre-existing streets. (Municipal and County Government)  
270, am 602-603, psd 627, S conc 830, enr 847 (Chapter 154)
- SB 360**, requiring written notification concerning certain offenders against children. (Criminal Justice and Public Safety)  
204, K 530
- SB 361-FN-A**, relative to fees of the postsecondary education commission for preserving certain academic records. (Ways and Means)  
438, am 549, psd 576, S conc 702, enr 829 (Chapter 105)
- SB 362**, changing the name of the college for lifelong learning to Granite state college. (Executive Departments and Administration)  
337, study 738
- SB 364**, increasing the penalties for littering. (Criminal Justice and Public Safety)  
269, K 530
- SB 366-FN**, relative to the Interstate Insurance Product Compact. (Commerce)  
270, am 706-707, psd 783, S conc 830, enr am 847, enr 897 (Chapter 196)
- SB 367**, relative to the New Hampshire Insurance Guaranty Association Act of 2004. (Commerce)  
339, am 707-709, psd 783, S conc 830, enr am 847, enr 897 (Chapter 197)
- SB 368**, relative to reinsurance. (Commerce)  
438, am 581, psd 627, S conc 830, enr am 846, enr 848 (Chapter 186)
- SB 369**, relative to examinations of insurance companies by the insurance department. (Commerce)  
270, psd 581, 627, enr am 684, enr 847 (Chapter 155)
- SB 370**, relative to the insurance rating law. (Commerce)  
438, am 581-582, psd 627, S conc 830, enr 847 (Chapter 156)
- SB 371**, relative to certain technical changes in the insurance laws. (Commerce)  
438, am 633-636, psd 700, S conc 830, enr am 846, enr 848 (Chapter 187)
- SB 372**, relative to the definition of necessary shelter for dogs. (Criminal Justice and Public Safety)  
269, K 598
- SB 375**, relative to the regulation of physician assistants. (Executive Departments and Administration)  
270, am 718-720, psd 784, S conc 830, enr am 846, enr 897 (Chapter 198)

- SB 376-FN-A**, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. (Finance)  
**new title:** relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals, relative to the medicaid enhancement tax, relative to nursing facility quality assessments, relative to certain medicaid programs, and relative to rural hospitals.  
523, as (RC) 763-774, psd 784, S nonconc, conf 840, rep adop (RC) & remarks 870-874, rep adop 898, enr am 901, enr 906, appointments 931 (Chapter 260)
- SB 377**, relative to damage to land by certain recreational uses. (Resources, Recreation and Development)  
269, am 547-548, psd 576, S conc 702, enr 829 (Chapter 122)
- SB 379**, relative to safety inspection and certification of certain equipment of vehicles. (Transportation)  
337, psd 548-549, 576, enr 628 (Chapter 56)
- SB 380**, establishing a statewide incident command system. (Executive Departments and Administration)  
204, am 539, psd 575, S conc 702, enr 829 (Chapter 106)
- SB 381**, relative to the transfer of certain capital appropriations within the department of safety. (Public Works and Highways)  
**new title:** relative to the authorization for and transfer of certain capital appropriations within the department of safety.  
337, am 546, psd 576, S nonconc, conf 841, rep adop 852, 898, enr 902 (Chapter 217)
- SB 382-FN-L**, relative to medical service rates for state prisoners. (Finance)  
438, am 774-775, psd 784, S nonconc, conf 840, rep adop 874, 898, enr 902 (Chapter 218)
- SB 383-FN**, relative to pharmacy benefit management. ( Health, Human Services and Elderly Affairs)  
339, am (3RCs) 552-565, psd 576, S conc 830, enr am 846, enr 848, report date extended 927 (Chapter 188)
- SB 384-FN**, relative to drugs paid for by the state. ( Health, Human Services and Elderly Affairs)  
438, K 544
- SB 386**, relative to the guardian ad litem board and providing for certification of guardians ad litem. (Criminal Justice and Public Safety)  
438, vac Children and Family Law 527, am 633, psd 699, S conc 830, enr am 846, enr 848, repealed and reenacted 928 (Chapter 189)
- SB 388-FN**, relative to proof of successful completion of an impaired driver intervention program. (Criminal Justice and Public Safety)  
339, psd 598, 627, enr am 684, enr 847 (Chapter 157)
- SB 389**, relative to certain insurance contracts. (Commerce)  
523, K 636
- SB 390**, relative to liability of third person under workers' compensation. (Labor, Industrial and Rehabilitative Services)  
204, LT 693, 926
- SB 391**, relative to bond votes in municipalities using chartered official ballot voting procedures and relative to Claremont school district elections. (Municipal and County Government)  
**new title:** relative to bond votes in municipalities using chartered official ballot voting procedures, relative to Claremont school district elections, and relative to the elections of officials of the union school district of Keene.  
269, am 603-606, psd 627, S nonconc, conf 840, rep adop 852, 898, enr am 902, enr 906 (Chapter 254)

- SB 392**, relative to criminal responsibility for certain offenses committed by persons 13 years of age or older. (Criminal Justice and Public Safety)  
438, am 530-531, psd 575, S conc 830, enr 847 (Chapter 158)
- SB 397**, requiring the department of environmental services to adopt certain rules and to opt out of the reformulated gasoline program. (Science, Technology and Energy)  
**new title:** requiring the department of environmental services to adopt certain rules and to eliminate certain substances from gasoline supplies.  
339, am 685-687, psd 700, S conc 830, enr 847 (Chapter 175)
- SB 399-FN**, relative to the sale of animals. (Ways and Means)  
438, am 566-567, psd 576, S conc 702, enr 829 (Chapter 107)
- SB 400**, relative to real estate appraisals conducted for mortgage loan applicants. (Commerce)  
337, K 529
- SB 401-FN**, relative to funeral processions to the state veterans cemetery using the New Hampshire turnpike system. (Public Works and Highways)  
337, K 546
- SB 402**, relative to an optional retirement annuity benefit for members of the Manchester retirement system. (Executive Departments and Administration)  
321, am 539, psd 575, S conc 830, enr 847 (Chapter 159)
- SB 403**, relative to the board of medicine. (Executive Departments and Administration)  
231, psd 640, 700, enr 829 (Chapter 108)
- SB 404**, establishing a committee to study the feasibility of providing statewide access to "Newline for the Blind." ( Health, Human Services and Elderly Affairs)  
270, K 474
- SB 406**, relative to adoption procedures. (Children and Family Law)  
438, am 730-734, psd 784, S conc am 830, enr am 848, enr 906 (Chapter 255)
- SB 407-FN-L**, relative to default budgets in the budget adoption procedure in political subdivisions which have adopted official ballot voting. (Municipal and County Government)  
523, rem 704, SO 783, am 808-810, psd 828, S nonconc, conf 840, rep adop 852-853, 898, enr 902 (Chapter 219)
- SB 408**, relative to a civil liability exemption for claims resulting from weight gain and obesity. (Judiciary)  
438, K 565
- SB 409-FN**, revising the vocational school licensing statutes. (Executive Departments and Administration)  
338, rem 527, am & Finance 569, am 724, psd 784, S conc 830, enr am 846, enr 848 (Chapter 190)
- SB 411-FN-L**, relative to liability for special education transportation costs. (Finance)  
523, study 724-725
- SB 412**, extending a public trust grant for the Gunstock Area ski resort's snowmaking. (Resources, Recreation and Development)  
204, psd 548, 576, enr 628 (Chapter 57)
- SB 413-FN**, relative to financing federally aided highway projects. (Public Works and Highways)  
**new title:** establishing a commission to study the construction time frame and financing for the expansion of Interstate Route 93.  
438, am 546-547, psd 576, S nonconc, conf 841, rep adop 853, 898, enr 902, appointments 931 (Chapter 220)



- SB 414-FN**, clarifying the laws relative to municipal impact fees, off-site exactions, vesting of development rights, and waiver of subdivision regulations. (Municipal and County Government)  
339, am 606-607, psd 627, S conc 830, enr am 846, enr 897 (Chapter 199)
- SB 415-FN**, continuing and expanding to all counties the Grafton county court pilot project relative to abuse and neglect hearings. (Children and Family Law)  
**new title:** relative to the expansion of the Grafton county court pilot project relative to abuse and neglect hearings.  
204, am 704-706, psd 783, S nonconc, conf 838, rep adop 853-854, 898, enr 902, appointments 931-932 (Chapter 221)
- SB 416**, relative to membership of the advisory committee on child care. (Children and Family Law)  
270, psd 527, 575, enr am 578, enr 700, membership repealed & reenacted 927 (Chapter 92)
- SB 417**, relative to vicious dog assaults. (Criminal Justice and Public Safety)  
269, K 598
- SB 418**, relative to voting procedures in the Hanover school district. (Education)  
269, rem 527, rcmt 568-569, am 638-640, psd 700, S conc 830, enr 847 (Chapter 160)
- SB 419**, relative to the use of standardized health statements and relative to renewals of certain policies. (Commerce)  
438, K 735
- SB 421**, relative to charter schools. (Education)  
523, rem 633, am 696-698, psd 700, S nonconc, conf 839, rep adop 874-875, 898, enr 902, committee amended 927 (Chapter 222)
- SB 423**, relative to confidentiality and workers' compensation. (Judiciary)  
231, am 726, psd 784, S nonconc, conf 840, rep adop 875, 898, enr 902 (Chapter 223)
- SB 424-FN**, relative to boating and carnival-amusement regulation by the department of safety. (Criminal Justice and Public Safety)  
338, psd 531, enr 628 (Chapter 58)
- SB 427**, relative to the definition of marriage. (Judiciary)  
**new title:** relative to legal recognition of out-of-state marriages and establishing a commission to examine all aspects of same sex civil marriage and its legal equivalents.  
523, am & debate (5RCs) 644-684, psd & remarks 700, S conc 830, enr 832, appointments 932 (Chapter 100)
- SB 428**, establishing a committee to study the protection of consumers from unfair lending practices. (Commerce)  
270, K 529
- SB 429**, relative to state and municipal contracting practices for public works. . (Public Works and Highways)  
438, study (RC) 694-696
- SB 430-FN**, relative to mandated insurance benefits and establishing a committee to study the feasibility of mandating that health insurers provide medical loss information to small group employers. (Commerce)  
339, am 709-710, psd 784, S conc 830, enr 847, appointments 932 (Chapter 161)
- SB 431**, prohibiting the waiver of workers' compensation subrogation rights and prohibiting certain indemnification provisions in construction-related contracts. (Labor, Industrial and Rehabilitative Services)  
231, psd 279, 334, enr 337 (Chapter 3)

- SB 432-FN**, establishing a division of emergency services, communications, and management, a division of fire standards and training and emergency medical services, and a division of fire safety in the department of safety. (Executive Departments and Administration)  
338, am 539-541, psd 575, S conc 702, enr am 829, enr 847 (Chapter 171)
- SB 433-FN**, establishing a committee to study utility rate review by the public utilities commission. (Science, Technology and Energy)  
523, K 641
- SB 434**, relative to importing prescription drugs from Canada. (Executive Departments and Administration)  
438, am 738-739, psd 784, S nonconc, conf 839, conferee change 845, clerk's note 926, (not signed off)
- SB 436-FN-L**, relative to the Claremont and Newport district courts. (Judiciary)  
270, Finance 544, am 725, psd 784, S conc 830, enr 847 (Chapter 176)
- SB 438**, relative to immunization practices for hospitals, residential care facilities, adult day care facilities, and assisted living facilities. (Health, Human Services and Elderly Affairs)  
438, psd 544, 576, enr 628 (Chapter 66)
- SB 439**, relative to probationary drivers' licenses. (Criminal Justice and Public Safety)  
**new title:** relative to probationary drivers' licenses and amending the effective date for establishing a criminal penalty for facilitating a drug or underage alcohol house party.  
338, rem 527, am 567, psd 576, S conc 830, enr 847 (Chapter 162)
- SB 441**, relative to the operation of dental clinics by health care charitable trusts. (Commerce)  
523, am 710-711, psd 784, S conc 830, enr 847 (Chapter 163)
- SB 442**, relative to manufactured housing installation standards. (Commerce)  
438, am 711-716, psd 784, S conc 830, enr am 846, enr 848 (Chapter 191)
- SB 443**, relative to rural electric cooperatives. (Science, Technology and Energy)  
**new title:** relative to rural electric cooperatives and establishing an energy planning advisory board.  
438, am 641-642, psd 700, S conc 830, enr 847, appointments 932, committee amended 928 (Chapter 164)
- SB 445**, relative to the regulation of dietitians by the board of licensed dietitians. (Executive Departments and Administration)  
269, am 720, psd 784, S conc 830, enr 847 (Chapter 165)
- SB 448-FN**, relative to consumer guaranty contracts. (Commerce)  
523, am 636-637, psd 700, S conc 830, enr am 846, enr 902 (Chapter 224)
- SB 449**, relative to fluoridation of municipally-owned public water systems. (Municipal and County Government)  
523, SO 783, am 794-799, psd 828, S nonconc, conf 840, rep adop 875, 898, enr 902 (Chapter 225)
- SB 450-FN**, relative to pari-mutuel licenses, and relative to trainer responsibility for the condition of horses and dogs. (Ways and Means)  
523, psd 567, 576, enr 630 (Chapter 59)
- SB 451**, giving degree-granting authority to the Hellenic American University and the St. Joseph's School of Nursing. (Education)  
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523, am 609, adop 628, S conc 702
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**2004 SESSION****2003 CONSTITUTIONAL AMENDMENT CONCURRENT RESOLUTIONS  
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**CACR 2**, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis. (Pepino, Hills 51; et al: Education)

**new title:** relating to the legislature's authority concerning the content, extent, beneficiaries, level and source of funding of public education. Providing that the legislature shall have authority (subject to the supreme court's power to review for rational basis) to determine the content, extent, beneficiaries, level and source of funding of public education.

SO 73, am & K (2RCs) 161-169

**CACR 5**, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules that have the force and effect of law, and that the general court may regulate these matters by statute and may accept or reject any rule adopted by the supreme court, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall supersede the rule. (Mock, Carr 4; et al: Judiciary)

**new title:** relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule.

am (RC) & remarks 152-158, adop 159, S conc 701, enr 829

**CACR 9**, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms, which may be renewed. (J. Wheeler, Hills 47; et al: Judiciary)

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**CACR 10**, relating to gender neutral language in the constitution. Providing that all references to persons in part 2 of the constitution shall be gender neutral. (Norelli, Rock 86; et al: Judiciary)

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**CACR 13**, relating to defining the extent of state responsibility to provide aid for public elementary and secondary education. Providing that the state shall provide aid to school districts with a fiscal capacity that is less than their education need and the aid shall be a minimum of 31 percent of the state average expenditure per public elementary and secondary pupil, calculated at least once in every 5 years. (Gionet, Graf 11; et al: Education)

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**(CLERK'S NOTE)**

House Rules required all House legislation to be introduced in the first year of the 2003-2004 biennium. A supplemental filing period for legislation was held April 10 – 24, 2003. The introduction deadline date of June 24, 2003 was suspended. House action on supplemental legislation was held over to the 2004 legislative session.

The following Constitutional Amendment Concurrent Resolutions are included in this category:

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**CACR 20**, relating to the conservation of the gravel and water resources of the state. Providing that the general court may provide for special assessments, rates and taxes on gravel and water extracted from the resources of the state. (Cady, Rock 73; et al: Ways and Means)

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**CACR 21**, relating to state education property tax exemption for certain disabled veterans. Providing that veterans with certain service connected disabilities shall be exempt from the state education property tax. (Easson, Straf 68; et al: Ways and Means)  
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**CACR 22**, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth. (Bicknell, Rock 73; et al: Ways and Means) study (RC) 510-512

**CACR 23**, relating to: oaths of civil officers. Providing that: all officers, department heads in the executive branch, and town officers shall take an oath before executing the duties of their office. (L. Christiansen, Hills 66; et al: Judiciary)  
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**CACR 24**, Relating to: election of the attorney general. Providing that: the attorney general shall be elected by the house of representatives and the senate. (DiFruscia, Rock 76; et al: Legislative Administration)  
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**CACR 25**, Relating to: prohibiting an income tax. Providing that: no tax on personal income shall be levied by the state of New Hampshire. ( Balboni, Hills 59; et al: Ways and Means)  
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HB 351, requiring completion of a child impact seminar prior to filing for divorce. Question, adopt committee report of inexpedient to legislate. Yeas, 278; Nays, 72 .....	58-60
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HB 366, relative to mercury reduction. Question, adopt majority committee report of ought to pass with amendment. Yeas, 206; Nays, 114 .....	200-202
HB 421-FN-A, relative to the waiting list for services for people with developmental disabilities and making an appropriation therefor. Question, adopt committee report of inexpedient to legislate. Yeas, 188; Nays, 142 .....	149-152
HB 503, relative to septic system construction permits. Question, pass over governor's veto. Yeas, 247; Nays, 88 .....	909-911
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HB 698-FN, relative to electronic toll collection. Question, adopt committee amendment. Yeas, 245; Nays, 74 .....	466-468
HB 747, establishing the crime victim employment leave act. Question, adopt committee report of inexpedient to legislate. Yeas, 223; Nays, 129 .....	172-175
HB 754-FN-L, establishing an education certificate program to allow parental choice in the selection of schools for children. Question, adopt committee report of refer for interim study. Yeas, 233; Nays, 118 .....	76-78
HB 755, relative to the burden of proof in child abuse and neglect proceedings. Question, adopt majority report of inexpedient to legislate. Yeas, 268; Nays, 74 .....	69-71
HB 803-FN-A-L, relative to the establishment of municipal economic and revitalization districts by municipalities. Question, adopt floor amendment. Yeas, 145; Nays, 197 .....	180-182
HB 1134, relative to appointment of the chief justice of the supreme court. Question, adopt majority committee report of ought to pass with amendment. Yeas, 216; nays, 135 .....	401-404
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HB 1176, relative to government access to private property. Question, adopt majority committee report of inexpedient to legislate. Yeas, 277; Nays, 57 .....	255-258
HB 1177-FN, requiring the department of health and human services to compile and maintain induced termination of pregnancy statistics. Question, adopt majority committee amendment. Yeas, 134; Nays, 217 .....	407-409
HB 1220-FN, relative to banning partial birth abortion. Question, adopt majority committee report of inexpedient to legislate. Yeas, 189; Nays, 129 .....	475-477
HB 1251-FN-A, establishing an income tax. Question, adopt majority committee report of inexpedient to legislate. Yeas, 318; Nays, 10 .....	227-229
HB 1253-FN-L, prohibiting public funds, employees, and facilities to assist or perform abortions. Question, adopt majority committee report of inexpedient to legislate. Yeas, 217; Nays, 109 .....	317-319
HB 1269, establishing a citizens' legislative redistricting advisory board. Question, adopt majority committee report of inexpedient to legislate. Yeas, 225; Nays, 111 .....	289-291



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HB 1278-FN-L, relative to applicable minimum wages for hourly employees. Question, adopt majority committee report of inexpedient to legislate.	
Yeas, 173; Nays, 172 .....	418-420
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HB 1292, apportioning state representative districts. Question, adopt Malloy floor amendment. Yeas, 120; Nays, 228 .....	298-301
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HB 1309, relative to noise pollution from shooting ranges. Question, adopt majority committee amendment. Yeas, 224; Nays, 121 .....	412-414
Question, adopt majority committee report of ought to pass with amendment. Yeas, 235; Nays, 110 .....	414-417
HB 1328, requiring the development of a plan for the elimination of county government by the year 2011. Question, adopt committee report of inexpedient to legislate. Yeas, 225; Nays, 103 .....	504-506
HB 1339-FN-A-L, relative to distribution of tobacco settlement funds. Question, adopt majority committee report of inexpedient to legislate. Yeas, 168; Nays, 154 .....	471-473
HB 1340-FN, relative to the Informed Consent for Abortion Act. Question, adopt floor amendment. Yeas, 113; Nays, 209 .....	481-483
HB 1353-FN, mandating open enrollment schools statewide. Question, lay on table. Yeas, 160; Nays, 183 .....	246-249
Question, adopt majority committee amendment. Yeas, 171; Nays, 172 .....	249-251
Question, inexpedient to legislate. Yeas, 258; Nays, 85 .....	251-254
HB 1360-FN, including "unborn child" in the definition of "another" for the purpose of capital murder, first and second degree murder, manslaughter and negligent homicide. Question, adopt committee report of refer for interim study. Yeas, 263; Nays, 69 .....	516-519
HB 1376, relative to agency fees assessed pursuant to public employer collective bargaining agreements. Question, adopt committee report of ought to pass with amendment. Yeas, 220; Nays, 83 .....	329-331
HB 1386, relative to participation by nonresident taxpayers in town meetings. Question, adopt majority committee report of inexpedient to legislate. Yeas, 218; Nays, 115 .....	259-261
HB 1393, relative to the appeal of the lower court's decision in a child protection case. Question, adopt majority committee report of ought to pass with amendment. Yeas, 232; Nays, 76 .....	457-459
HB 1405-L, relative to requiring municipalities to use official ballot voting procedures for bond issues. Question, adopt committee report of inexpedient to legislate. Yeas, 265; Nays, 71 .....	506-509
HB 1413, relative to the creation of mandatory screening panels for medical injury claims. Question, adopt majority amendment. Yeas, 203; Nays, 113 .....	491-493
Question, adopt minority amendment. Yeas, 113; Nays, 202 .....	498-501
HB 1416, relative to a permanent property tax exemption for wooden poles and conduits. Question, adopt majority committee report of ought to pass with amendment. Yeas, 192; Nays, 145 .....	514-516
HB 1421-FN, relative to solid waste incineration. Question, adopt majority committee report of refer for interim study. Yeas, 175; Nays, 142 .....	426-428
HB 1424-FN-A, establishing a pharmaceutical commission and making an appropriation therefor. Question, adopt majority amendment. Yeas, 205; Nays, 107 .....	462-464
HB 2004-FN-L, relative to the state 10-year transportation improvement plan and making certain adjustments to turnpike funds. Question, adopt conference committee report. Yeas, 133; Nays, 171 .....	887-889
Question, pass over governor's veto. Yeas, 312; Nays, 31 .....	917-920
HCR 22, urging Congress to withdraw the United States from the United Nations. Question, lay on table. Yeas, 144; Nays, 170 .....	431-433
Question, adopt majority committee report of ought to pass. Yeas, 116; Nays, 185 .....	433-436
HCR 25, declaring that the directives of the judicial branch in the Claremont cases that the legislative and executive branches define an "adequate education,"	

**Roll calls (cont.)****HCR 25 (cont.)**

adopt "standards of accountability," and "guarantee adequate funding" of a public education are not binding on the legislative and executive branches. Question, adopt committee report of inexpedient to legislate.	
Yeas, 217; Nays, 100 .....	326-328
SB 74-FN-A-L, increasing certain motor vehicle registration fees and appropriating the funds for local government records management programs. Question, adopt majority committee report of ought to pass with amendment.	
Yeas, 132; Nays, 209 .....	183-186
SB 95-FN-L, relative to the development of workforce housing within municipalities. Question, adopt inexpedient to legislate. Yeas, 201; Nays, 135 .....	189-192
SB 109, adopting the Model Drug Dealer Liability Act. Question, adopt committee amendment. Yeas, 204; Nays, 139 .....	791-793
SB 302-FN-L, making technical corrections to the education funding formula. Question, adopt sections 14-17 of the floor amendment. Yeas, 241; Nays, 96 .....	820-823
Question, adopt remainder of floor amendment. Yeas, 282; Nays, 53 .....	823-825
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Question, adopt conference committee report. Yeas, 195; Nays, 165 .....	865-867
SB 324-FN-A-L, relative to the calculation of the commissioner's warrant for the statewide enhanced education tax to be raised by a municipality. Question, adopt majority amendment. Yeas, 158; Nays, 182 .....	621-623
SB 335, relative to access to birth records. Question, adopt majority committee report of ought to pass. Yeas, 223; Nays, 103 .....	687-690
SB 343, relative to landowner permission for OHRV operation and relative to loading and unloading OHRVs on highways. Question, adopt committee amendment. Yeas, 184; Nays, 147 .....	571-573
SB 376-FN-A, relative to pharmaceutical purchases for receiving facilities and nonprofit hospitals. Question, adopt minority amendment. Yeas, 183; Nays, 157 .....	772-774
Question, adopt conference committee report. Yeas, 324; Nays, 3 .....	871-873
SB 383-FN, relative to pharmacy benefit management. Question, adopt majority amendment. Yeas, 200; Nays, 163 .....	556-559
Question, adopt floor amendment. Yeas, 262; Nays, 99 .....	559-562
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SB 427, relative to the definition of marriage. Question, adopt majority committee amendment. Yeas, 213; Nays, 140 .....	645-648
Question, adopt floor amendment. Yeas, 143; Nays, 210 .....	649-651
Question, lay on table. Yeas, 139; Nays, 212 .....	651-654
Question, adopt majority committee report of ought to pass with amendment. Yeas, 215; Nays, 137 .....	654-656
Question, adopt motion to print debate. Yeas, 197; Nays, 154 .....	656-659
SB 429, relative to state and municipal contracting practices for public works. Question, adopt committee report of refer for interim study. Yeas, 224; Nays, 61 .....	694-696
SB 452, relative to testimony of expert witnesses. Question, adopt motion of ought to pass. Yeas, 183; Nays, 159 .....	613-615
SB 454-FN, relative to carrying a concealed weapon without a license. Question, adopt majority committee report of inexpedient to legislate. Yeas, 223; Nays, 94 .....	690-692
SB 470-FN, relative to funding for the physician effectiveness program, and establishing a dedicated fund. Question, pass over governor's veto. Yeas, 318; Nays, 25 .....	920-923
SB 478-FN, relative to penalties for DWI offenses. Question, lay on table. Yeas, 114; Nays, 231 .....	803-805
Question, adopt committee report of ought to pass with amendment. Yeas, 199; Nays, 146 .....	805-807
Question, adopt conference committee report. Yeas, 211; Nays, 119 .....	881-884
SB 484, establishing the Collaborative Practice for Emergency Contraception Act. Question, adopt majority committee report of inexpedient to legislate. Yeas, 159; Nays, 183 .....	739-742
Question, lay on table. Yeas, 140; Nays, 204 .....	742-744
Question, ought to pass. Yeas, 198; Nays, 146 .....	744-747
SB 487, relative to lead sinks. Question, adopt majority committee amendment. Yeas, 253; Nays, 82 .....	776-778

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Question, adopt minority amendment. Yeas, 125; Nays, 203 ..... 778-781

Question, adopt majority committee report of ought to pass with amendment.  
Yeas, 222; Nays, 105 ..... 781-783

SB 513, relative to the death penalty. Question, adopt motion of ought to pass.  
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SB 534-FN-A, relative to the reorganization of certain functions and duties of state agencies. Question, adopt committee report of ought to pass with amendment.  
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CACR 2, relating to the standard for judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education. Providing that judicial review of all legislative determinations concerning the content, extent, beneficiaries, and level of funding of public education shall be limited to whether or not they have a rational basis.

Question, adopt floor amendment. Yeas, 206; Nays, 147 ..... 164-167

Question, adopt committee report of ought to pass with amendment.  
Yeas, 186; Nays, 172 ..... 167-169

CACR 5, relating to the rulemaking authority of the supreme court. Providing that the supreme court may adopt rules, that the general court may regulate these matters by statute, and that in the event of a conflict between a statute and a rule, the statute, if otherwise valid, shall prevail over the rule. Question, adopt committee report of ought to pass with amendment. Yeas, 256; Nays, 69 ..... 153-156

CACR 9, relating to 7-year terms for state judges. Providing that all state judges appointed on or after January 1, 2005 be commissioned for 7-year terms which may be renewed. Question, adopt majority committee report of inexpedient to legislate.  
Yeas, 212; Nays, 140 ..... 170-172

CACR 22, relating to taxation. Providing that a 2/3 vote is required to pass a new tax or to increase a tax after it is levied and that the maximum increase in any budget bill shall be limited by the rates of inflation and population growth. Question, adopt committee report of refer for interim study. Yeas, 269; Nays, 66 ..... 510-512

CACR 24, relating to election of the attorney general. Providing that the attorney general shall be elected by the house of representatives and the senate. Question, adopt majority committee report of inexpedient to legislate.  
Yeas, 221; Nays, 105 ..... 320-322

CACR 25, relating to prohibiting an income tax. Providing that no tax on personal income shall be levied by the state of New Hampshire. Question, adopt committee report of inexpedient to legislate. Yeas, 253; Nays, 64 ..... 323-325

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and health and human services commissioner report on proposal to establish capitol police force .....	SB 534am
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carnival-amusement rides, inspection and reports by agents of the commissioner .....	SB 424
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NH hospital security officers, authority transferred from hospital superintendent .....	HB 511am
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motor vehicles, minor traffic violations, administrative hearings in department instead of district courts .....	HB 1391
NH hospital security force transferred from health and human services .....	SB 534
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telemarketers, automatic telephone dialing systems, use restricted; time for disconnect reduced; registration repealed .....	HB 141
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  - school district and for special education ..... HB 1345
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- meetings
  - bonds and notes, official ballot procedures required ..... HB 1405
  - special, petition by 1/5<sup>th</sup> of voters required ..... HB 1255
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  - bullying, notification to parents of policy and of any incidences of bullying ..... HB 1162
  - psychotropic drugs, parental refusal to administer not grounds for taking child
    - into protective custody ..... HB 551
  - psychotropic drugs, parental rights ..... HB 492
  - Ritalin, and other psychotropic drugs, prescription in childcare centers, preschools,
    - and public schools, study ..... HB 551am
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- administrative units
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  - legislative oversight committee ..... HB 727
  - ..... HB 1281am
- American Sign Language and transliteration credited as a foreign language in
  - elementary and secondary schools ..... HB 1297
- building aid
  - certain funds not eligible for computing grants ..... SB 352
  - grants for indoor air quality; written maintenance plan required, information included ..... HB 1188
- charter
  - state board, denial of application must be in writing and state reasons; accountability
    - plan required; registration as corporation with secretary of state ..... SB 421
  - teacher may remain member of previous bargaining unit; leave of absence from
    - previous public school ..... SB 61
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- early childhood literacy, parents as teachers program in Sullivan county extended;
  - appropriation; responsibility transferred from health and human services
    - to education department ..... SB 132
- food service directors and staff, certification required ..... HB 1208
- funding
  - adequate education, cost, formula changed; targeted aid ..... SB 302am
  - adequate education, grants, date for notification of amounts ..... HB 1281am
  - adequate education, grants, not distributed to towns that fail to complete property
    - valuations by December 2004 ..... HB 1317
  - Claremont decisions not binding on legislative and executive branches of government ..... HCR 25
  - education property tax, rate for fiscal 2005; afterwards, revenue administration
    - commissioner to set rate to equal revenue of last year ..... SB 302am
  - elderly age 70 and over exempt from state and local property taxes ..... HB 1213
  - statewide enhanced education tax, disabled veterans exempt ..... CACR 21
  - statewide enhanced education tax, low and moderate income homeowners tax relief,
    - claims paid even if funds are not available in the education trust fund; report
      - by revenue administration ..... HB 618am
  - statewide enhanced education tax, low and moderate income homeowners tax relief,
    - late-filed applications and extensions for federal taxes, provisions for
      - acceptance ..... HB 618am
  - statewide enhanced education tax, Penacook section of Concord defined as
    - municipality for purpose of calculating commissioner's warrant ..... SB 324am
  - statewide enhanced education tax, revenue administration, commissioner's warrant,
    - calculation amended regarding railroad and utility property taxes ..... SB 324
  - statewide property tax, hardship relief, attorney general to supervise revenue
    - administration in implementing ..... HB 1317
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    - with homeowner's relief ..... HB 746
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innovative land use controls, impact fees may be used for public open space .....	HB 1137
innovative land use controls, impact fees, time for assessment; off-site exactions where there is no impact fee ordinance .....	SB 414
must provide opportunities for workforce housing .....	SB 95
proposals or amendments, notice of hearings must be sent to owners of property which would be affected .....	HB 1359
repeal by petition, procedure .....	HB 1377
second violation of same ordinance, penalties increased; recovery of costs and attorneys' fees .....	HB 713
planning and land use boards, members, procedures for designating alternates; rules of order adopted each year .....	HB 474
planning boards, preapplication review of plats, time limits .....	HB 1392
smart growth, positions established in office of state planning and at UNH; funded by surcharge on building permits .....	HB 649
subdivisions	
buildings, construction on streets existing before a municipality authorized planning board approval .....	SB 359
regulations, innovative land use controls may be required; transfer of density development rights; preliminary and pre-application review .....	HB 761









































